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4 ``SECURITY OF HEALTHCARE.GOV''

5 TUESDAY, NOVEMBER 19, 2013

6 House of Representatives,

7 Subcommittee on Oversight and Investigations

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The Subcommittee met, pursuant to call, at 10:15 a.m.,
11 in Room 2123 of the Rayburn House Office Building, Hon. Tim
12 Murphy [Chairman of the Subcommittee] presiding.

13 Members present: Representatives Murphy, Burgess,
14 Blackburn, Scalise, Harper, Olson, Gardner, Griffith,
15 Johnson, Long, Ellmers, Barton, Upton (ex officio), DeGette,
16 Braley, Lujan, Schakowsky, Butterfield, Welch, Tonko,
17 Yarmuth, Dingell and Waxman (ex officio).

18 Staff present: Carl Anderson, Counsel, Oversight; Mike

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19 Bloomquist, General Counsel; Sean Bonyun, Communications
20 Director; Karen Christian, Chief Counsel, Oversight; Noelle
21 Clemente, Press Secretary; Brad Grantz, Policy Coordinator,
22 Oversight and Investigations; Brittany Havens, Legislative
23 Clerk; Sean Hayes, Counsel, Oversight and Investigations;
24 Brandon Mooney, Professional Staff Member; Andrew Powaleny,
25 Deputy Press Secretary; Tom Wilbur, Digital Media Advisor;
26 Jessica Wilkerson, Staff Assistant; Stacia Cardille,
27 Democratic Deputy Chief Counsel; Brian Cohen, Democratic
28 Staff Director, Oversight and Investigations, Senior Policy
29 Advisor; Hannah Green, Democratic Staff Assistant; Elizabeth
30 Letter, Democratic Press Secretary; Karen Lightfoot,
31 Democratic Communications Director and Senior Policy Advisor;
32 Karen Nelson, Democratic Deputy Committee Staff Director for
33 Health; Stephen Salsbury, Democratic Special Assistant; and
34 Matt Siegler, Democratic Counsel.

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35 Mr. {Murphy.} Good morning. I convene this hearing of
36 the Subcommittee on Oversight and Investigations to discuss
37 the security of the Healthcare.gov Web site.

38 Americans want to know the answers to two simple
39 questions; is my information secure if I use Healthcare.gov,
40 and what I--why should I believe the Administration that it
41 is.

42 It has been nearly 50 days since the launch of
43 Healthcare.gov, and the Web site is still not functioning at
44 an acceptable level. This is despite the numerous promises
45 and assurances the public was given by members of the
46 Administration leading up to and over the several months up
47 to the launch of the Web site.

48 This committee heard directly from Secretary Sebelius,
49 Administrator Tavenner, and CCIIO Director, Gary Cohen, that
50 they were ready by October 1. We are all deeply troubled
51 that the individuals who want to be in charge of America's
52 healthcare system could not even predict accurately if the
53 Web site would work. And those predictions were not just
54 limited to the Web site. We have also been routinely
55 promised that the Web site was safe, and that Americans'
56 personal information would be secure.

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57 When Administrator Tavenner last appeared before this
58 committee, she informed us that testing began in October of
59 last year, that end-to-end testing would be completed by the
60 end of August this year. We have now learned that this
61 simply was not the case. End-to-end testing is not possible
62 when the Web site isn't completed.

63 Today we hope to hear from our witness about how much of
64 the Web site remains to be built. If the first parts of
65 Healthcare.gov have been this problematic, we are obviously
66 concerned about parts that are being constructed under
67 current pressures and time constraints.

68 The witnesses for--the witness for our first panel today
69 is Mr. Henry Chao, the Deputy Chief Information Officer at
70 the Centers for Medicare and Medicaid Services, and we want
71 to thank you for coming and testifying today. I can only
72 imagine how stressful the last few months have been for you,
73 so welcome here. Yet, I hope you can appreciate the fact
74 that HHS has a way to go to regain the trust of the American
75 people in this Web site. They were promised a functioning
76 Web site as easy as buying a TV on Amazon, and what they got
77 was a train wreck.

78 The reason the trust of the American people may be so
79 difficult to regain is because every day, new revelations

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80 emerge that show this wreck was entirely foreseeable. Last
81 week, this subcommittee uncovered emails from CMS showing
82 that as early as July of this year, Mr. Chao, our first
83 witness, was worried that the company primarily responsible
84 for building the Web site, CGI, would ``crash at takeoff.''

85 Today this subcommittee also released materials showing
86 that as early as March to April of this year, top
87 Administration officials were well aware that Healthcare.gov
88 was far off schedule, and testing of the Web site would be
89 limited. We have also learned that Healthcare.gov was only
90 launched after Administrator Tavenner signed an authority to
91 operate, which included a memo warning her that a full
92 security control assessment was not yet completed. This memo
93 makes it clear that the highest levels of CMS knew that there
94 were security risks present, yet again, while this document
95 was being signed in private, Administration officials were
96 promising public that in only a few days, the American people
97 would be able to use a perfectly-functioning Web site.

98 A few weeks ago, Secretary Sebelius told this committee
99 that the highest security standards are in place, and people
100 have every right to expect privacy. I hope that today we
101 hear what those standards are from--not only from Mr. Chao
102 and also from our second panel as well.

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103 Our second panel features some of the contractors that
104 are responsible for the security of Healthcare.gov, and I
105 thank them for testifying today. I am disappointed that one
106 of the companies responsible for security, Verizon, chose not
107 to testify today. We will certainly be following up with
108 Verizon so that they are accountable to the public for their
109 work here.

110 Today's hearing is not just about the Web site. Web
111 sites can be fixed. What cannot be fixed is the damage that
112 could be done to the American people if their personal data
113 is compromised. Right now, Healthcare.gov screams to those
114 who are trying to break into the system, if you like my
115 healthcare info, maybe you can steal it.

116 [The prepared statement of Mr. Murphy follows:]

117 ***** COMMITTEE INSERT *****

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118 Mr. {Murphy.} But I now recognize for an opening
119 statement, Ms. DeGette of Colorado, for 5 minutes.

120 Ms. {DeGette.} Thank you very much, Chairman Murphy. I
121 want to add your thanks to Mr. Chao for being here today, as
122 well as the three contractor witnesses; MITRE, CCSi and
123 Foreground.

124 We must make sure that the healthcare--that the data on
125 Healthcare.gov is secure. Everybody can agree on that. The
126 American people must know that their data is protected when
127 they go on the site to find a quality, affordable insurance
128 plan for themselves or their families. This is critical.
129 However, my fear is that today's hearing is actually less
130 about the facts of the security of Healthcare.gov, and more
131 about political points and undermining the ACA.

132 Now, without a doubt, no one could disagree there are
133 troubling problems with the rollout of the Exchanges. Three
134 weeks ago, our full committee held the first hearing on the
135 inexcusable fact that Healthcare.gov seems to have been
136 broken since it was very first launched. And three weeks
137 later, while improving, it is clearly not up to speed. As I
138 have said before, the Exchanges need to be fixed, and they
139 need to be fixed fast so that the American people can easily

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140 access quality, affordable insurance plans open to them. I
141 hope we will have another hearing after the November 30
142 deadline to see how they are working.

143 My fear about this hearing today though is that it won't
144 enlighten the American public, but instead raise unjustified
145 fears about security piling on all of the other issues. Now,
146 obviously, as I said, we need to make sure that the data on
147 Healthcare.gov is secure, but we should not create smoke if
148 there is no fire.

149 So before we begin, I want to give the American people
150 some peace of mind based on the facts that we know about
151 security on Healthcare.gov.

152 First, and critically, no American has to provide any
153 personal health information to Healthcare.gov or to insurers
154 in order to qualify for health coverage and subsidies. To
155 make sure about this, I went on the Exchange myself the other
156 day, and that is because the ACA bans discrimination based on
157 pre-existing health conditions. Before the ACA became law,
158 Americans buying coverage on the individual insurance market
159 had to fill out page after page of personal health
160 information to apply for insurance. But no longer, thanks to
161 the Affordable Care Act. Americans do not have to turn over
162 any private health insurance to get coverage.

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163 Second, while no Web site in the government or in the
164 private sector is 100 percent secure, unfortunately, there is
165 a complex and detailed set of rules that HHS must follow to
166 make sure that data on Healthcare.gov is secure. And I am
167 looking forward to hearing from you, Mr. Chao, about these
168 security issues today.

169 The Agency has a long record of maintaining personal
170 information about Medicare, Medicaid, Social Security and
171 many areas, and has never had a significant leak of
172 information. HHS must comply with the Federal Information
173 Security Management Act, and National Institute of Standards
174 and Technology Guidelines to protect information systems and
175 the data collected or maintained by Healthcare.gov. And like
176 all federal agencies, HHS is required to develop, document
177 and implement an agency-wide information security program.

178 Today, our committee's investigation has found that CMS
179 has complied with every important security rule and
180 guideline. They hired a small army of contractors to make
181 sure the Web site is secure, and they are going to talk to us
182 about it today.

183 The memo, Mr. Chairman, that you talked about at our
184 last hearing, that identified some security concerns,
185 primarily a lack of end-to-end testing on Healthcare.gov, but

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186 it also outlined a mitigation plan, one we learned was--that
187 the Agency was following to mitigate security risks. So I
188 want to hear from the contractors and from you, Mr. Chao, if,
189 in fact, these findings are being heeded.

190 Now, unfortunately, Mr. Chairman, I have to raise one
191 more issue in my remaining minute, and that is this
192 committee's grand tradition of bipartisanship investigation.
193 Apparently, the committee, last Thursday, received a memo
194 from CMS, Red Team discussion document. The majority on this
195 committee did not share this memo with the minority on this
196 committee until yesterday, coincidentally, just after they
197 leaked this memo to The Washington Post. Now--and if you saw
198 The Washington Post front page today, you saw a big story,
199 and, Mr. Chairman, you were quoted in that story, talking
200 about concerns about the readiness of the Exchange based on
201 this memo.

202 I know that is not the topic of this hearing today, but
203 I have got to say it is not in the tradition of the committee
204 to conduct investigations that way. And when the majority
205 received this memo, it should have immediately provided it to
206 all of the members so that we could read it and find out. We
207 are all just as concerned about making these Exchanges work.

208 And to that end, Mr. Waxman and I have written a letter

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209 expressing our displeasure, and we would like to enter that
210 into the record at this time, Mr. Chairman.

211 [The information follows:]

212 ***** COMMITTEE INSERT *****

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213 [The prepared statement of Ms. DeGette follows:]

214 ***** COMMITTEE INSERT *****

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215 Mr. {Murphy.} That is fine, and I will look forward to
216 talking with you more about these procedures. I know that
217 these came as part of hundreds of--a couple of hundred
218 thousand pages of documents we are going through, but we
219 should--well, I will be glad to review that with you because
220 I certainly respect my colleague on this--

221 Ms. {DeGette.} That we were able to find it in time to
222 give it to The Washington Post in time for today's hearing,
223 and to be quoted--

224 Mr. {Murphy.} We will--

225 Ms. {DeGette.} --in The Washington Post.

226 Mr. {Murphy.} We will have a good discussion on that.

227 I thank my colleague whose time has expired.

228 I now recognize the Chairman of the Full Committee, Mr.
229 Upton, for 5 minutes.

230 The {Chairman.} Well, thank you, Mr. Chairman.

231 You know, for months, Administration witnesses have come
232 before this committee and assured us that the implementation
233 of the President's healthcare law was on track, their words,
234 and that Healthcare.gov would be ready for the October 1
235 launch. But why not give the straight story to the Congress
236 and the public, because back on April 18, Secretary Sebelius

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237 testified in this very room, we have the federal hub on track
238 and on time. I can tell you we are on track. Those are her
239 words. But we now know that the Secretary's testimony did
240 not match what was happening behind the scenes.

241 Two weeks before she testified before this committee,
242 Secretary Sebelius was present at an April 4 meeting where
243 experts identified significant threats and risks launching
244 the site on October 1. The Administration was on track, on
245 track for disaster, but stubbornly they stayed the course,
246 repeating their claims that this--all is well and on track,
247 right up until the mess that launched on October 1. And even
248 after the launch, Administration officials insisted that the
249 volume was primarily the culprit, when they, in fact, knew
250 otherwise.

251 But our oversight of the health law is not just about a
252 Web site. No, it is not. It is about whether the public can
253 trust and rely on this healthcare system that the
254 Administration has been building for over three years, and
255 spending hundreds of millions of dollars. The failure of
256 this Web site has significant consequences for all Americans.
257 One important question is whether individuals will be able to
258 enroll and obtain coverage by January 1. Security is another
259 critical concern. How can the public trust a hastily-thrown-

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260 together system in which meeting a deadline was more
261 important for the Administration than conducting complete
262 end-to-end testing of the site's security.

263 Mr. Henry Chao, Deputy Chief Information Officer of CMS,
264 is here to answer those questions, about CMS's management of
265 the Federal Exchange and the implications for security. And,
266 Mr. Chao, I do understand that you are a career employee, and
267 have been at CMS for years, and I know, as Chairman Murphy
268 indicated, the last few months have not been particularly
269 easy. Last March, you were one of the first to publicly
270 offer a glimpse of the true situation when you candidly
271 remarked about the Web site and said, let us just make sure
272 it is not a third world experience. Documents produced to
273 the committee paint a clear picture that the Administration
274 officials, in fact, knew for months before the October 1
275 about--date about delays and problems with the Web site
276 development. Mr. Chao, you have been responsible for
277 managing the development of the Healthcare.gov, but I can
278 imagine many matters were outside of your control. And given
279 the lack of end-to-end testing, I hope that you can explain
280 to us today why the Administration felt confident in the
281 security of Healthcare.gov when the system went live on
282 October 1.

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283 We are also joined by three companies that were awarded
284 contracts by CMS to provide security services for the Federal
285 Exchange. These companies are here also today to answer
286 questions about their roles. I know the subjects of security
287 presents certain sensitivities, and I am glad that they made
288 the decision to accept our invitations to testify and inform
289 us about how Healthcare.gov works or doesn't.

290 One thing that we have learned; there are countless
291 contractors involved in building this Web site, and
292 responsibilities are divided. Very divided. It is a complex
293 system, I know, but we would like to know how the delays and
294 rushed implementation have affected or complicated the
295 ability to perform the security work for the Web site.

296 And I yield the balance of my time to Dr. Burgess.

297 [The prepared statement of Mr. Upton follows:]

298 ***** COMMITTEE INSERT *****

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299 Dr. {Burgess.} I thank The Chairman for the
300 recognition, and I do want to thank our witnesses for being
301 here today.

302 Pretty broad agreement, the implementation of the
303 Affordable Care Act has been problematic, and rather than
304 getting better, it may be getting worse. We have low
305 enrollment numbers, a Web site so bad that it has required
306 the appointment of a glitch tsar, cancelled plan, broken
307 promises from the President, just for starters. These
308 initial problems break the surface of the deeper issues that
309 lie ahead for not just the law, but for the American people
310 that must live under the law.

311 And, Mr. Chao, you probably, prior to anyone else,
312 sounded the alarm with that speech to AHIP, and I know you
313 are tired of hearing it, but I will tell you once again, your
314 comments that you were just trying to prevent the Web site
315 from becoming a third world experience, I admire your ability
316 to see over the horizon and tell the problems before they
317 come up and hit you in the windshield. But also you are the
318 one who recommended that it was safe to launch the Web site
319 on October 1. So what happened in those 6 months that led
320 you, yourself, and others in the Administration to believe

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321 that this law was, in fact, ready for primetime? Not only
322 did the Center for Medicare and Medicaid Services fail to
323 establish basic functionality, but Healthcare.gov's flaws
324 continue to pose a threat to the security of Americans'
325 personal data. And just on a personal note, when I went to
326 Healthcare.gov this morning, it was still not functional.
327 Another Web site, HealthSherpa.com, can actually tell me
328 about the plans that are available in my area. We know it
329 was possible to do this. We are all wondering why it wasn't.

330 Thank you, Mr. Chairman. I will yield back.

331 [The prepared statement Dr. Burgess follows:]

332 ***** COMMITTEE INSERT *****

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333 Mr. {Murphy.} Gentleman yields back.

334 Now recognize the Ranking Member of the Full Committee,
335 Mr. Waxman, for 5 minutes.

336 Mr. {Waxman.} Thank you very much, Mr. Chairman.

337 The last 6 weeks have been a difficult one for
338 supporters of the Affordable Care Act. The troubled rollout
339 of the Web site prevented many of our constituents from
340 signing up for the affordable, high-quality coverage for
341 which they now qualify. And it has been relentlessly
342 exploited for political gain by Republican opponents of the
343 law.

344 I was interested to hear the phrase in the 2
345 Republicans' statements, maybe in all of them; we don't want
346 a third world Web site. Well, let me tell you what is third
347 world. Third world in this country is when we leave millions
348 of people unable to get insurance because they have pre-
349 existing medical conditions, or they can't afford it. No
350 other industrial country allows such a thing to happen, but
351 that is what Republicans who have opposed this law would have
352 us return to.

353 I think we are turning the corner on the Web site. On
354 Friday, Jeff Zients, the Administration's point person on

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355 Healthcare.gov, announced two key metrics of improvement, and
356 it seems to me these are all very good signs the Web site is
357 getting better. Additional improvements are still needed,
358 but Healthcare.gov means more and more people will be signing
359 up for coverage as that Web site becomes more usable.

360 I want to tell you what is happening in California. In
361 the first month, 35,000 people enrolled in the Exchange, over
362 70,000 qualified for Medicaid, and state officials say that
363 the pace of enrollment is increasing. In is just the first
364 12 days of November, enrollment from the first month almost
365 doubled.

366 Now, I know we are looking today at the issue of data
367 security on Healthcare.gov. It is an important issue. We
368 should begin by acknowledging that the ACA represents an
369 enormous step forward for privacy because, when people apply
370 for insurance coverage, the law bans them from being asked
371 questions about their underwriting, about their medical
372 conditions, about the privacy of things that affect their
373 health, because it is not necessary to ask those questions.
374 They are not going to be denied insurance coverage because of
375 previous medical problems. But there is some personal
376 information that people are going to be asked for when they
377 sign up, and we need to ensure that this information is

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378 protected.

379 This question comes up repeatedly--came up repeatedly
380 when Secretary Sebelius was before us. She told us the
381 department is placing a high priority on the security of the
382 Web site, and the highest security standards are in place to
383 protect personal information on Healthcare.gov.

384 I hope this hearing will be serious, evenhanded inquiry,
385 but I fear that some of my Republican colleagues may
386 exaggerate security concerns to stoke public fear, and
387 exaggerate it so that they can dissuade people from even
388 signing up. This is exactly what this subcommittee did when
389 they launched an investigation into nonprofit community
390 organizations serving as healthcare navigators. They were
391 harassing these people in order to prevent them from helping
392 people learn what is available to them.

393 Mr. Chairman, yesterday we learned that you have been
394 withholding important investigative documents, leaking them
395 to the press before even providing them to the Democratic
396 members and staff. And I sent you a letter this morning
397 describing why this is a violation of the committee's
398 precedent. It is not the way this committee has judicially
399 operated, and it raises concerns about whether these hearings
400 are becoming another partisan attempt to weaken the

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401 Affordable Care Act.

402 The committee should not go down that road. We should
403 be using our oversight powers to improve the Affordable Care
404 Act, not to sabotage it or to discourage Americans from
405 signing up for quality care.

406 I want to yield the balance of my time, Mr. Chairman, to
407 Mr. Dingell.

408 [The prepared statement of Mr. Waxman follows:]

409 ***** COMMITTEE INSERT *****

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410 Mr. {Dingell.} I thank the gentleman. I ask unanimous
411 consent to revise and extend my remarks, and I am pleased to
412 be here and I am certainly pleased that my subscription to
413 The Washington Post is in effect so I can find out what is
414 being leaked by my Republican colleagues to the media.

415 This is interesting. We have clearly a violation of the
416 practices, traditions and histories this committee and the
417 investigations it has done. I speak as a member who has done
418 more investigations than anybody in this room, including
419 probably more than all of them put together.

420 Here, we have a breach of the responsibility of the
421 leadership to make information available to the committee at
422 the same time they make it to the press. I find that
423 difficult, but worse than that, I find it intolerable that
424 this committee is running around fishing for trouble where
425 none exists. I feel a little bit like the old maid who came
426 home and looked under the bed to find out if there was
427 somebody there, hoping, in fact, that there would be.
428 Unfortunately, there is not.

429 I have seen no evidence of any complaints or any
430 evidence of misbehavior with regard to the information that
431 is controlled by the government. I would urge this committee

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432 to spend its time trying to make this situation work, and see
433 to it that we collect the information that is necessary, make
434 the Web site work, and see to it that we register the
435 Americans so that we can cease being a third world nation,
436 both with regard to how the Congress runs and how the
437 healthcare of this country works.

438 Mr. {Murphy.} Gentleman's time has expired.

439 Mr. {Dingell.} We are down around the third world
440 nations in the way that we take care of the health of our
441 people. Look at the statistics.

442 Mr. {Murphy.} Thank you.

443 Mr. {Dingell.} It will give you a shock.

444 [The prepared statement of Mr. Dingell follows:]

445 ***** COMMITTEE INSERT *****

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446 Mr. {Murphy.} Gentleman's time has expired.

447 Thank you very much. And now I would like to introduce
448 the witnesses on our first panel for today's hearing. Henry
449 Chao has served since January 2011 as the Deputy Chief
450 Information Officer and Deputy Director of the Office of
451 Information Services at the Centers for Medicare and Medicaid
452 Services. Some of his prior roles include Chief Information
453 Officer in the Office of Consumer Information and Insurance
454 Oversight, and Chief Technology Officer for CMS. I now swear
455 in the witness.

456 You are aware, Mr. Chao, that the committee is holding
457 an investigative hearing, and when doing so, has the practice
458 of taking testimony under oath. Do you have any objection to
459 taking testimony under oath? The witness indicates no. The
460 Chair then advises you that under the rules of the House and
461 the rules of the committee, you are entitled to be advised by
462 counsel. Do you desire to be advised by counsel during your
463 testimony today? Mr. counsel indicates no. In that case,
464 would you please rise, raise your right hand, I will swear
465 you in.

466 [Witness sworn.]

467 Mr. {Murphy.} Thank you. You are now under oath and

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468 subject to the penalties set forth in Title XVIII, Section
469 1001 of the United States Code. You may now give a 5-minute
470 summary of your written statement. And make sure the
471 microphone is on and pulled close to you. Thank you, Mr.
472 Chao.

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|

473 ^TESTIMONY OF HENRY CHAO, DEPUTY CHIEF INFORMATION OFFICER
474 AND DEPUTY DIRECTOR OF THE OFFICE OF INFORMATION SERVICES
475 CENTERS FOR MEDICARE AND MEDICAID SERVICES (CMS)

476 } Mr. {Chao.} Thank you, Chairman Murphy, Ranking Member
477 DeGette, and members of the subcommittee for inviting me to
478 testify about the security of the Federally-facility
479 Marketplace.

480 The security and protection of personal and financial
481 information is a top priority for CMS which, for decades, has
482 protected the personal information of the more than 100
483 million Americans enrolled in Medicare, Medicaid and the
484 Children's Health Insurance Program.

485 The protection of personal information in CMS programs
486 is a monumental responsibility. Every day, CMS enrolls new
487 Medicare beneficiaries, pays claims timely and efficiently,
488 and protects the information of consumers and providers. CMS
489 used this experience and our security-best practices to build
490 a secure federal marketplace that consumers should feel
491 confident entrusting with their personal information.

492 CMS follows federal law, government-wide security
493 processes and standard business practices to ensure stringent

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494 security and privacy protections. CMS's security protections
495 are not singular in nature; rather, the marketplace is
496 protected by an extensive set of security layers.

497 First and foremost, the application--the online
498 application is developed with secure code. Second, the
499 application infrastructure is physically and logically
500 protected by our hosting provider. Third, the application is
501 protected through an internet defense shield in order to
502 protect unauthorized access to any personal data. Finally,
503 several entities provide direct and indirect security
504 monitoring, security testing, and security oversight which
505 includes the various organizational groups that CMS are
506 reporting to key stakeholders with respect to security and
507 privacy.

508 This includes the Department of Health and Human
509 Services. We also work in conjunction with US-CERT, which is
510 operated by the Department of Homeland Security. CERT stands
511 for Computer Emergency Response Team. And the Office of the
512 Inspector General of HHS. Each of these groups have varying
513 roles to ensure operational management and technical controls
514 are implemented and successfully working.

515 The Federally-facilitated Marketplace is protected by
516 the high standards demanded of federal information systems,

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517 including regulations and standards proscribed by FISMA,
518 NIST, the Privacy Act and the directives promulgated by The
519 Office of Management and Budget.

520 CMS designed the marketplace IT systems and the Hub to
521 reduce possible vulnerabilities and increase the efficiency.
522 A large number of connections can cause security
523 vulnerabilities. The Hub allows for 1 highly-secured
524 connection between highly-protected databases of trusted
525 states and federal agencies, instead of hundreds of
526 connections that would have been established as part of how
527 normal business practices in present day in how government
528 connects organizations with each other to conduct business.

529 A series of business agreements enforce privacy controls
530 between CMS and our federal and state partners.
531 Additionally, CMS designed the marketplace systems to limit
532 the amount of personal data stored, and protects personal
533 information and limit access through passwords, encryption
534 technologies, zoned architecture with firewall separation in
535 between the zones, and various other security controls to
536 monitor log-in and to prevent unauthorized access to our
537 systems.

538 CMS also protects the federal marketplace through
539 intensive and stringent security testing. While the federal

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540 marketplace has had some performance issues that could have
541 been addressed through more comprehensive functionality and
542 performance testing, I want to be clear that we have
543 conducted extensive security testing for the systems that
544 went live on October 1. We continue to test for security on
545 a daily and a weekly basis any new functions or code prior to
546 its launch. Of course, we are working around the clock to
547 fix our performance issues so that the vast majority of users
548 have a smooth experience with the site by the end of the
549 month.

550 While I cannot go into specifics of our security testing
551 due to sensitive nature, I assure you that CMS conducts
552 continuous antivirus and malware scans, as well as monitors
553 data flow and protections against threats by denying access
554 to known source-bad IP addresses and actors. Additionally,
555 we conduct two separate types of penetration testing on a
556 weekly basis. The most recent penetration testing showed no
557 significant findings. Also on a weekly basis, CMS reviews
558 the operation system infrastructure and the application
559 software to be sure that these systems are compliant and do
560 not have vulnerabilities. Vulnerabilities are often fixed
561 immediately on-site, and retested to ensure the strength of
562 our system's security. Each month, we review our plan of

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563 action and milestones in order to continuously improve our
564 system's security.

565 For the Federally-facilitated Marketplace, we conduct
566 security control assessments on a quarterly basis, which is
567 beyond the FISMA requirements. As of today, no
568 vulnerabilities identified by our tests have been exploited
569 through an attack. Because of CMS's experience running
570 trusted secure programs, our fulfillment of federal security
571 standards and constant and routine security monitoring and
572 testing, the American people can be confident in the privacy
573 and security of the marketplace.

574 Thank you, and I would be happy to answer your
575 questions.

576 [The prepared statement of Mr. Chao follows:]

577 ***** INSERT A *****

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|

578 Mr. {Murphy.} Thank you, Mr. Chao. I will recognize
579 myself first for 5 minutes.

580 Mr. Chao, for the last year, members of this committee
581 have asked you and others in the Administration about the
582 status of the launch of the President's healthcare law. We
583 wanted to know if you would be ready for the October 1 start
584 of enrollment. Over and over, we were assured that all was
585 well and everything was on track.

586 The documents produced to the committee show a different
587 picture, and I would like to walk through a couple of them
588 with you.

589 In mid-March, you made a candid comment that you didn't
590 want the Exchange Web site to be a third world experience.
591 Now the committee has learned about a report prepared by
592 committee for senior HHS and Whitehouse officials, and
593 presented to these officials in late March and early April
594 this year. That document is tab 1 of your document binder.
595 This document highlights a number of risks facing
596 Healthcare.gov's launch, late policy, delayed designs, and
597 building time and limited to a test.

598 When did you first see this presentation?

599 Mr. {Chao.} I haven't seen that presentation.

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600 Mr. {Murphy.} You were not briefed at all that there
601 was a McKinsey report presentation going on?

602 Mr. {Chao.} I knew that McKinsey had been brought in to
603 conduct some interviews and assessments and report to our
604 administrator, in which I actually participated in some of
605 those--

606 Mr. {Murphy.} You participated in the interviews when
607 McKinsey was exploring this?

608 Mr. {Chao.} Right, but I was not given the final
609 report.

610 Mr. {Murphy.} Were you aware that they had met with
611 Secretary Sebelius, Marilyn Tavenner, Gary Cohen and others
612 at CMS Headquarters, HHS Headquarters, the Executive Office
613 Building and the Whitehouse?

614 Mr. {Chao.} We--

615 Mr. {Murphy.} Any of those incidences?

616 Mr. {Chao.} I believe there were some meetings that I
617 heard of, but I don't know the exact dates when they
618 occurred.

619 Mr. {Murphy.} Now, part of your job is to make sure
620 that this Web site is working, am I correct?

621 Mr. {Chao.} Correct.

622 Mr. {Murphy.} And so this was a major report that went

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623 as high up as the Secretary, maybe others, we don't know, but
624 saying that there was serious problems with this. And you
625 are saying that, even though you were interviewed by this,
626 you did not ever have this briefing yourself?

627 Mr. {Chao.} No, I didn't.

628 Mr. {Murphy.} You knew it existed?

629 Mr. {Chao.} I had heard that there was a final report
630 out, but I didn't see the actual report.

631 Mr. {Murphy.} Did anything change for you in
632 recognizing that this report was--that this briefing was out
633 there, basically telling people working on the HHS Web site
634 that there were serious problems, no end-to-end testing, that
635 this--other area--various aspects of it?

636 Mr. {Chao.} I can't really tell you or speak to you of
637 the contents of that report because I did not see it, and I
638 didn't hear about it until actually it was in The Washington
639 Post.

640 Mr. {Murphy.} I mean certainly, this is part of the
641 concerns we have, and we are not making this stuff up. It is
642 a matter that we have a Web site out there which untold
643 millions, tens of millions or hundreds of millions are spent
644 on this Web Site, which you have major leadership role here.
645 McKinsey is hired to come and present what the problems are,

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646 and lay out a roadmap of those problems. I am deeply
647 concerned that this is something that you knew existed but
648 had not read.

649 So when were you first concerned that the Administration
650 wasn't going to be ready October 1 for the start of the open
651 enrollment?

652 Mr. {Chao.} I never thought that. I had relative--

653 Mr. {Murphy.} But you made a comment about you didn't
654 want this to be a plane crash.

655 Mr. {Chao.} Well, you are referring to the email--

656 Mr. {Murphy.} Yes.

657 Mr. {Chao.} --exchange that I had with several--

658 Mr. {Murphy.} Yes, certainly that email didn't say
659 everything is going fine, congratulations team.

660 Mr. {Chao.} Of course--I--

661 Mr. {Murphy.} It said I don't want this to be a--so you
662 must have had some awareness that some problems existed.

663 Mr. {Chao.} Chairman, you have to understand, and the
664 committee, that I have been working on this since mid-2010--

665 Mr. {Murphy.} And we appreciate that.

666 Mr. {Chao.} --and I have--I am a very cautious and--you
667 know, I err on the side of caution and urgency because, even
668 back in 2010, I didn't believe that, you know, everything

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669 would be easy and just, you know, going along smoothly. So
670 on a regular basis, I work with a lot of my contractors and
671 my staff to sensitize them on the sense and level of urgency
672 that is involved.

673 Mr. {Murphy.} Absolutely. Especially with McKinsey was
674 called in to prepare this document which was important enough
675 for them to have meetings at CMS, HHS, with the Secretary of
676 Health and Human Services, at the Executive Office Building
677 and at the Whitehouse, describing the level of problems. So
678 I appreciate your sensitivity and awareness to that. I am
679 concerned you saying you have not even read this yet.

680 Your testimony mentions the use of sensors and active
681 event monitoring. You state that if an event occurs, an
682 instant response capability is activated. Has that happened
683 yet?

684 Mr. {Chao.} Yes.

685 Mr. {Murphy.} How many times?

686 Mr. {Chao.} You mean whether if we are conducting--

687 Mr. {Murphy.} No, an instant response--

688 Mr. {Chao.} --an instant response--

689 Mr. {Murphy.} --capability. Well, first of all, has
690 anything happened yet, any hackers, any breaches, anyone
691 trying to get into the system from the outside, has that

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692 occurred yet?

693 Mr. {Chao.} I think that there was 1 incident that I am
694 aware of, but it requires that we go to a classified facility
695 and to actually--

696 Mr. {Murphy.} Only once since the--where--but you are
697 saying no other attempts to breach into this system have
698 occurred?

699 Mr. {Chao.} Not successful ones, no.

700 Mr. {Murphy.} Not since when?

701 Mr. {Chao.} Not successful ones.

702 Mr. {Murphy.} All right. Now, when there are attempts,
703 who do you report this to?

704 Mr. {Chao.} It is a combination of a series of
705 authorities that are involved.

706 Mr. {Murphy.} Law enforcement?

707 Mr. {Chao.} Well, through our incident reporting and
708 breach reporting processes that go through our agencies,
709 various key leadership and then up through the department, as
710 well as we have a Security Incident Response Center at the
711 department that works with US-CERT at DHS.

712 Mr. {Murphy.} Thank you. We will follow-up
713 subsequently.

714 I know--I am out of time, so we will now recognize Ms.

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715 DeGette for 5 minutes.

716 Ms. {DeGette.} Thank you very much, Mr. Chairman.

717 First of all, Mr. Chao, and also to the contractors,
718 something you said in your opening I think we should really
719 take heed, which is you want to be careful not to divulge
720 sensitive information about the security designs of the Web
721 site. Is that right?

722 Mr. {Chao.} That is correct.

723 Ms. {DeGette.} So I would say to you and to the
724 contractors, and I think the majority would agree with me, if
725 there is a question asked about that sensitive information,
726 if you would just let us know and then we can take it into
727 executive session, or whatever we need to do.

728 Ms. {Murphy.} Absolutely.

729 Mr. {Chao.} Certainly.

730 Ms. {DeGette.} Thank you, Mr. Chairman.

731 Now, Mr. Chao, The Chairman was asking you about this
732 memo that you had--or it is an email, and it was on Tuesday,
733 July 16. If you can take a look at page--at tab 7 in your
734 binder--your document binder, please. That is a copy of your
735 memo, and it looks to me in reading it that you were
736 basically telling people that you wanted to make sure this
737 Web site got up and going. Is that right?

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738 Mr. {Chao.} Yes.

739 Ms. {DeGette.} And that was your view, right?

740 Mr. {Chao.} Yes.

741 Ms. {DeGette.} Did you take further actions after July

742 16 to try to get the Web site up and going?

743 Mr. {Chao.} It was a constant daily effort.

744 Ms. {DeGette.} And it still is, isn't it?

745 Mr. {Chao.} To improve it, certainly.

746 Ms. {DeGette.} Yes. Okay, I would like you now to take

747 a look at tab 1 of your document binder. Now, Mr. Chao, this

748 is the document that was given to The Washington Post

749 yesterday by the majority, and also simultaneously to the

750 Democrats on the committee. This is the document the

751 Chairman was asking you about in his opening statement. Have

752 you ever seen this document before?

753 Mr. {Chao.} No, I haven't.

754 Ms. {DeGette.} Okay, so you don't really know about

755 whatever it might have said in that document, right?

756 Mr. {Chao.} No, I--

757 Ms. {DeGette.} Okay, thanks.

758 Mr. {Chao.} I believe it is an executive level briefing

759 for--

760 Ms. {DeGette.} Right, but you weren't--you didn't--you

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761 weren't part of that briefing?

762 Mr. {Chao.} No.

763 Ms. {DeGette.} Okay. That doesn't mean though that you
764 weren't concerned about the Web site working and trying to
765 make it work.

766 Mr. {Chao.} Well, of course. I think in some of the
767 interviews with McKinsey, you know, I think some of what is
768 in here could have potentially come from information that--

769 Ms. {DeGette.} But you wouldn't know that because you
770 didn't see it.

771 Mr. {Chao.} No, I--

772 Ms. {DeGette.} Okay.

773 Mr. {Chao.} --don't see how it was formed.

774 Ms. {DeGette.} I want to talk to you about the topic of
775 this hearing now for a few minutes, and that is the issue of
776 security. And I think I heard you say both in your opening
777 and in response to questioning by The Chairman, I just wanted
778 to ask again. Have there been vulnerabilities that have been
779 discovered since the Web site unveiled on October 1?

780 Mr. {Chao.} Security vulnerabilities--

781 Ms. {DeGette.} Yes.

782 Mr. {Chao.} --have not necessarily been reported in
783 terms of it being a security threat. I think there was some

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784 misuse of terminology of something like 16 incidents reported
785 that--in a previous DHS testimony a couple of days ago, but
786 they were actually incidents involving disclosure of PII
787 information, and it wasn't due to the result of anyone trying
788 to attack the Web site.

789 Ms. {DeGette.} What was it a result of?

790 Mr. {Chao.} It was dealing with some training issues at
791 the call center, or we had a system issue where if you had
792 similar usernames, we had--and you chose a special character
793 at the end of that username, for example, if you--your name
794 is Smith and you chose an @ sign at the end of the username,
795 sometimes that @ sign was treated like a--what we call a
796 wildcard search, so the return log-in information about
797 someone else, but that since--since was reported, has been
798 fixed as of today.

799 Ms. {DeGette.} That problem has been fixed so that is--

800 Mr. {Chao.} Yes.

801 Ms. {DeGette.} --not happening anymore?

802 Mr. {Chao.} It is not a hacker--

803 Ms. {DeGette.} Now, you have been at the Agency how
804 long, sir?

805 Mr. {Chao.} Approximately 20 years.

806 Ms. {DeGette.} And in working on the other sensitive

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807 areas, Medicare and other areas, is this common that

808 sometimes there might be a little bump like this?

809 Mr. {Chao.} Fairly common.

810 Ms. {DeGette.} Uh-huh, and what does the Agency do when

811 that is identified?

812 Mr. {Chao.} We have an extensive set of processes and

813 controls in place with designated personnel to handle whether

814 they are--

815 Ms. {DeGette.} And--

816 Mr. {Chao.} --for example, security breaches versus the

817 personally-identifiable information-type incidents, data

818 loss.

819 Ms. {DeGette.} And there is continuing testing, is that

820 right?

821 Mr. {Chao.} Correct.

822 Ms. {DeGette.} Now, MITRE has been performing

823 assessments for CMS, is that correct?

824 Mr. {Chao.} Correct.

825 Ms. {DeGette.} And what that does is it gives the

826 contractors the opportunity to identify and resolve security

827 vulnerabilities, is that correct?

828 Mr. {Chao.} I think what is--the benefit is that we use

829 a set of contractors to independently test the system so that

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830 we are not taking the words of, let us say, for example, QSSI
831 or CGI themselves performing security testing. So this
832 independent testing provides us a more, you know, balanced
833 view of--

834 Ms. {DeGette.} And is this ongoing, this--

835 Mr. {Chao.} Yes.

836 Ms. {DeGette.} --this independent testing?

837 Mr. {Chao.} It is on a daily and weekly basis.

838 Ms. {DeGette.} Thank you very much, Mr. Chairman.

839 Mr. {Murphy.} The Chair now recognizes Mr. Barton for 5
840 minutes.

841 Mr. {Barton.} Thank you. Thank you, Mr. Chairman.

842 In Mr. Dingell's opening statement, and to some extent
843 what Ms. DeGette just said, I am reminded of the movie,
844 Casablanca, and Claude Rains, the French chief of police,
845 goes into Rick's Café and says, I am shutting it down, I am
846 shutting it down. And Rick comes up, who is played by
847 Humphrey Bogart, and says, why are you shutting us down. And
848 Claude Rains, the chief of police, says, I am shocked,
849 shocked, to learn there is gambling going on, just as the
850 croupier comes up and says to Claude Rains, your winnings,
851 sir.

852 It is interesting and amusing that the past master

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853 running this committee, Mr. Dingell, would be shocked,
854 shocked and amazed that something was given to The Washington
855 Post yesterday. Now, I am not saying that it was, I don't
856 know, but if it did happen, it wouldn't be the first time in
857 this committee's history that documents were given to the
858 press at approximately the same time they were distributed to
859 the members of the committee.

860 Mr. {Dingell.} If the gentleman would yield, I didn't
861 say I was shocked, I said I was grateful I had the
862 subscription to The Washington Post so I could keep track of
863 what--

864 Mr. {Barton.} Well--

865 Mr. {Dingell.} --is going on in the committee--

866 Mr. {Barton.} Well--

867 Mr. {Dingell.} --along with my Republican--

868 Mr. {Barton.} --reclaiming my time from my--which is my
869 time, from my good friend. What shocks me is that a--Mr.
870 Chao, our witness, who is the Deputy Chief Information
871 Officer and Deputy Director of the Office of Information and
872 Services for Medicare and Medicaid, who has been identified
873 numerous times as the chief person in charge of preparing
874 this Web site at the CMS level, didn't--was not aware of this
875 document. I mean to me, that is what is shocking.

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876 So my first question to you, sir, is when were you made
877 aware of this McKinsey briefing document?

878 Mr. {Chao.} I think I was aware that some document was
879 being prepared, because I had gone through the interviews,
880 but towards the end when the briefings occurred, I was not
881 part of them--well, nor was I given a copy.

882 Mr. {Barton.} I mean were you aware that McKinsey had
883 been hired to come in and basically troubleshoot the status
884 of the Web site?

885 Mr. {Chao.} I don't think they were brought in to
886 troubleshoot, I think they were brought in to make an
887 assessment by conducting various interviews with key--

888 Mr. {Barton.} Did--

889 Mr. {Chao.} --stakeholders.

890 Mr. {Barton.} Did this group ever talk to you?

891 Mr. {Chao.} Yes.

892 Mr. {Barton.} Okay, so they did come in and at least
893 visit with you?

894 Mr. {Chao.} Yes, they have interviewed me before.

895 Mr. {Barton.} Once, twice, a dozen?

896 Mr. {Chao.} Probably at least two times from what I
897 recall.

898 Mr. {Barton.} Okay. Now, since you have been made

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899 aware of the document--

900 Mr. {Chao.} Well, I--

901 Mr. {Barton.} --have you studied it?

902 Mr. {Chao.} No, I was not made aware of the document.

903 I was interviewed by the team that put that together. When
904 the document was assembled, I didn't get a copy of it.

905 Mr. {Barton.} Okay. Well, as Mr. Dingell has pointed
906 out, it is in The Washington Post. So have you--before
907 coming before this subcommittee this morning, have you
908 perused this document?

909 Mr. {Chao.} No, I have not.

910 Mr. {Barton.} You have not perused this document, okay.
911 Well, on page 1 of the document, it says the working group,
912 whoever that is, maybe you can enlighten us on that,
913 determined that extending the go-live date, which, as we all
914 know, is October the 1st, should not be a part of the
915 analysis and, therefore, worked within a--with a boundary
916 condition of October the 1st as the launch date. Now, in
917 plain English, what that means is somebody decided we
918 couldn't delay the startup date so, by golly, we are going to
919 assume it is going to go live on October the 1st.

920 Were you a part of the working group that made that
921 decision?

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922 Mr. {Chao.} No.

923 Mr. {Barton.} Do you know who the working group was
924 that made that decision?

925 Mr. {Chao.} No.

926 Mr. {Barton.} Do you have any idea, was it the
927 President and the Secretary of Health and Human Services, or
928 was it somebody below your level that made a decision
929 somewhere in the bowels of the bureaucracy?

930 Mr. {Chao.} I think that it probably was a conglomerate
931 of several--

932 Mr. {Barton.} A conglomerate?

933 Mr. {Chao.} --key leadership that came to that
934 conclusion.

935 Mr. {Barton.} Okay. Did you--

936 Mr. {Chao.} I was--

937 Mr. {Barton.} Did you have any decision-making
938 authority yourself about when the start-up date should be?

939 Mr. {Chao.} No.

940 Mr. {Barton.} That was not in your authority to say we
941 are going to have to put it off or make a decision to go
942 forward?

943 Mr. {Chao.} No, I do not get to pick what date.

944 Mr. {Barton.} Do you know who did have that decision-

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945 making authority?

946 Mr. {Chao.} I believe it is our administrator, Marilyn
947 Tavenner, and potentially other folks, but primarily I take
948 my direction from Marilyn Tavenner.

949 Mr. {Barton.} All right. Well, Mr. Chairman, my time
950 has expired, but I will just say in summing up, we are
951 concerned at multiple levels, but if you review this CMS
952 document, which I did not see until just now, this morning,
953 it doesn't take but about 10 minutes to go through and look
954 at it, and it is absolutely clear that this--the startup of
955 the Web site was not going to work well, if at all, on
956 October the 1st. It was not. And they--it says that in
957 here.

958 So with that, I yield back.

959 Mr. {Murphy.} Thank you. Gentleman's time has expired.

960 The Chair now recognizes Mr. Dingell for 5 minutes.

961 Mr. {Dingell.} Chairman, I thank you for the
962 recognition and thank you for holding this hearing.

963 We are over 6 months now into the--6 weeks into the
964 implementation of the Affordable Care Act, and while
965 functioning--functionality of the Healthcare.gov Web site has
966 improved, it is clear there is more work to be done, and I am
967 hopeful that the subcommittee will work hard to achieve that

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968 goal.

969 ACA is the law of the land, and I believe we share the
970 goal of making it a functioning and secure Web site, however,
971 it is important to remember that we can never fully eliminate
972 the risks when building a large IT system, and so we must
973 take steps to mitigate them. I would also urge that we take
974 the necessary steps to make the program work, because this is
975 the largest undertaking of this character I believe that we
976 have ever seen by a government anywhere.

977 First question, yes or no. Is CMS responsible for
978 developing the Data Services Hub and the eligibility
979 enrollment tools for the Federally-facilitated Marketplace?
980 Yes or no, Mr. Chao?

981 Mr. {Chao.} Yes.

982 Mr. {Dingell.} Now, Mr. Chao, are these projects
983 required to comply with the Privacy Act of 1974, the Computer
984 Security Act of 1987, the Federal Information Security
985 Management Act of 2002? Yes or no?

986 Mr. {Chao.} Yes.

987 Mr. {Dingell.} Now, additionally, CMS must also comply
988 with regulations and standards promulgated by the National
989 Institute of Standards and Technology at the U.S. Department
990 of Commerce. Is that correct?

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991 Mr. {Chao.} Yes.

992 Mr. {Dingell.} Now, these NIST standards require CMS to
993 balance security considerations with operational
994 requirements. Is that correct?

995 Mr. {Chao.} Yes.

996 Mr. {Dingell.} Mr. Chao, once the key pieces of
997 Healthcare.gov Web site is the Data Hub. Is this a large
998 repository of personal information as some of my friends on
999 the other side have claimed? Yes or no?

1000 Mr. {Chao.} No.

1001 Mr. {Dingell.} Say that again. No?

1002 Mr. {Chao.} No, it does not store any--

1003 Mr. {Dingell.} Okay, I want--

1004 Mr. {Chao.} --personal--

1005 Mr. {Dingell.} I want that on the record and clearly
1006 heard. Does the Data Hub retain any personal information at
1007 all? Yes or no?

1008 Mr. {Chao.} No.

1009 Mr. {Dingell.} Indeed, is it fair to say that the Data
1010 Hub is a tool to transmit eligibility information to federal
1011 agencies? Yes or no?

1012 Mr. {Chao.} Yes.

1013 Mr. {Dingell.} Now, did the Hub--rather, did the Data

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1014 Hub pass a security test to the October 1 launch of

1015 Healthcare.gov? Yes or no?

1016 Mr. {Chao.} Yes.

1017 Mr. {Dingell.} All right, is the Data Hub working as

1018 intended today? Yes--

1019 Mr. {Chao.} Yes.

1020 Mr. {Dingell.} --or no?

1021 Mr. {Chao.} Yes.

1022 Mr. {Dingell.} And is there any evidence to the

1023 contrary?

1024 Mr. {Chao.} No.

1025 Mr. {Dingell.} Is there any evidence of breaches or

1026 lack of security of personal data or information by any

1027 person who has submitted such data to this undertaking? Yes

1028 or no?

1029 Mr. {Chao.} No.

1030 Mr. {Dingell.} It is always true--our duty to remember

1031 how our healthcare system operated prior to the passage of

1032 the ACA. At that time, insurance companies were allowed to

1033 medically underwrite people to determine their premium. This

1034 required lengthy, confusing applications, and contained a lot

1035 of personal medical information. Oftentimes this was

1036 submitted electronically as well. ACA has changed all of

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1037 this.

1038 Now, in fact, this is a question to you again, Mr. Chao.

1039 In fact, application forms on Healthcare.gov do not require
1040 the submission of any personal health information. Is that
1041 correct, yes or no?

1042 Mr. {Chao.} Yes.

1043 Mr. {Dingell.} Now, Mr. Chao, that is because ACA
1044 prohibits discrimination on the basis of pre-existing
1045 conditions, and outlaws charging people more because they are
1046 sick. Is that correct?

1047 Mr. {Chao.} Yes.

1048 Mr. {Dingell.} So the information is not necessary?

1049 Mr. {Chao.} It is not.

1050 Mr. {Dingell.} And it is not correct--and it is not
1051 collected?

1052 Mr. {Chao.} It is not collected.

1053 Mr. {Dingell.} All right, this is a remarkable
1054 improvement over the old system in terms of both security and
1055 the quality of care.

1056 Next question. There are a lot of negative stories in
1057 the press that create a lot of confusion, so I want to get
1058 this record straight.

1059 Is Healthcare.gov safe and secure for my constituents to

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1060 use today with regard to protection of their personal
1061 information and their privacy? Yes or no?

1062 Mr. {Chao.} Yes.

1063 Mr. {Dingell.} Is there any evidence at all to the
1064 contrary?

1065 Mr. {Chao.} No.

1066 Mr. {Dingell.} Mr. Chairman, you have been most
1067 gracious. I yield you back 12 seconds.

1068 Mr. {Murphy.} Thank you.

1069 Now going to--

1070 {Voice.} Ms. Blackburn.

1071 Ms. {Murphy.} --recognize Mrs. Blackburn for 5 minutes.
1072 Thank you.

1073 Mrs. {Blackburn.} Thank you, Mr. Chairman.

1074 Mr. Chao, we really appreciate that you would come and
1075 work with us on this issue. I want to talk with you for a
1076 minute about some red flags that seemed to be apparent to
1077 you, and you are going to find the email I am referencing at
1078 tab 7, and it is the July 16, 2013, email that you sent to
1079 Monique Outerbridge. And I really want to focus there. You
1080 know, when you have something that is running off the rails
1081 and--as this obviously seemed to you to be doing, it was a
1082 project that just was not proceeding as it should be

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1083 proceeding, and you expressed these concerns about the
1084 performance of CGI, what I would like to hear from you is
1085 just an articulation of maybe what were those top 3 or 4 red
1086 flags that seemed to be going up to you, that you said I fear
1087 that the plane is going to crash on takeoff, and some of
1088 those wording--wordings that we have heard from you now.

1089 So give me just kind of the top 3 or 4 things.

1090 Mr. {Chao.} I think in the context of this email, it
1091 was at a time period in which we were getting ready to roll
1092 out what we called Light Account, which is that initial
1093 registration process. And as I mentioned before, I am a
1094 person who has a lot of anxiety and I always err on the side
1095 of caution if we are going to run out of time, so I
1096 occasionally get a little passionate in my emails to remind
1097 people that they need to move fast, and if they are moving
1098 fast, they need to move faster. That is just the way I
1099 operate and the way I direct staff and contractors. And what
1100 I was afraid of was, at this particular point in time, was
1101 that we were falling behind in the rollout of Light Account.

1102 Mrs. {Blackburn.} Okay, on Light Account, did your test
1103 on that go off without a hitch, or what happened?

1104 Mr. {Chao.} There--I don't exactly remember the
1105 specifics about what tests passed or failed, I just was

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1106 afraid that we were in jeopardy of missing the date. So,
1107 therefore, you know, I--at that time period, starting July, I
1108 wrote lots of emails to try to--

1109 Mrs. {Blackburn.} Okay, did you hit the date?

1110 Mr. {Chao.} I believe we--it took an extra 4 days.

1111 Mrs. {Blackburn.} An extra 4 days?

1112 Mr. {Chao.} Yes.

1113 Mrs. {Blackburn.} On the test. And you don't remember
1114 exactly what the concerns were that came to you at that point
1115 in time. Is there a memo of review, a memo, an articulation
1116 of what--

1117 Mr. {Chao.} I--

1118 Mrs. {Blackburn.} --transpired in that test process?

1119 Mr. {Chao.} I don't think it is necessarily a memo. I
1120 think the way we operate is that we near--we have daily
1121 meetings and--

1122 Mrs. {Blackburn.} Are there minutes from those
1123 meetings--

1124 Mr. {Chao.} --we--

1125 Mrs. {Blackburn.} --and could you submit those to us
1126 for the record?

1127 Mr. {Chao.} I don't believe that there were minutes. I
1128 believe they were just status check-ins with, you know,

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1129 contractors and their--

1130 Mrs. {Blackburn.} Are there notes?

1131 Mr. {Chao.} No, I don't--

1132 Mrs. {Blackburn.} Informal notes?

1133 Mr. {Chao.} I don't believe so. I think when my emails
1134 were--

1135 Mrs. {Blackburn.} Okay.

1136 Mr. {Chao.} --submitted as evidence--

1137 Mrs. {Blackburn.} Okay.

1138 Mr. {Chao.} --that is kind of a--

1139 Mrs. {Blackburn.} All right, let me go on a minute. I
1140 want to talk specifically about CGI. What about, you know,
1141 if you all kind of informally worked in a group, and didn't
1142 have formal meetings in--or minutes and memos and things of
1143 that nature, just give me your impression, what was it--your
1144 perception that caused you to lose confidence in CGI, where
1145 were you on that, because I think it is so interesting, you
1146 mentioned price and I note in this email chain from Monique
1147 Outerbridge that they had \$40 million already that they had
1148 taken, they were coming back and asking for another \$38
1149 million. Now, if I had someone who had used up all of their
1150 money from a project, and then they came back and asked for
1151 that much more, I think I would have to say, wait a minute.

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1152 So regardless, obviously, the price to you was of tremendous
1153 concern. Am I right on that?

1154 Mr. {Chao.} Correct.

1155 Mrs. {Blackburn.} Okay, so they had already kind of
1156 washed your confidence there. What else was it in their
1157 conduct that eroded your confidence in their ability to
1158 transact this portion of business?

1159 Mr. {Chao.} I think what I was trying to say is that,
1160 relatively speaking to, I would say, most project managers
1161 that are looking at smaller-scale projects, I would say there
1162 might be some room to be--

1163 Mrs. {Blackburn.} Okay--

1164 Mr. {Chao.} --a little more confident, but given what--
1165 the task at hand, my confidence level had to deal with the
1166 enormous amount of activities we had to be successful at to
1167 deliver, you know, on Light Account, that interim, you know,
1168 kind of piece, as well as the October 1 delivery.

1169 Mrs. {Blackburn.} I yield back.

1170 Mr. {Murphy.} Yeah, I am just curious, to follow-up to
1171 that. Did you ever present these concerns that you had about
1172 being ready--whether or not it would be ready on October 1,
1173 when you were interviewed by McKinsey people?

1174 Mr. {Chao.} Well, this was in the July time frame. I

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1175 think McKinsey was--their interviews were in maybe March or
1176 April time frame.

1177 Mr. {Murphy.} I just wondered if you presented any
1178 concerns to them about being able to meet these dates when
1179 you spoke with them?

1180 Mr. {Chao.} I think as a course of conducting project
1181 management, program management, that working with CGI and
1182 QSSI and my team, we discussed these concerns on an ongoing
1183 basis. In--

1184 Mr. {Murphy.} Just one note. I will follow up--

1185 Mr. {Chao.} Okay.

1186 Mr. {Murphy.} We will make sure someone follows up.

1187 Now--

1188 {Voice.} Mr. Waxman.

1189 Mr. {Murphy.} --recognize Mr. Waxman, there we are, for
1190 5 minutes.

1191 Mr. {Waxman.} And thank you, Mr. Chairman.

1192 Nobody is happy with this rollout of the Healthcare.gov,
1193 and the Administration has taken its lumps, but aside from
1194 lessons learned, it seems to me that my focus ought to be and
1195 my concern is getting this thing working. Americans want to
1196 be able to access the Web site and choose a healthcare plan,
1197 especially those who haven't been able to get it--an

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1198 opportunity to buy health insurance in the past. That is why
1199 it seems to me, if we need legislative changes, we should
1200 make changes to make it work, not to repeal it. You know,
1201 the Republicans are so fixated on hating this law and they
1202 want to repeal it. They don't even want to consider helping
1203 make it work, and that is the focus that I want to use in
1204 asking you some questions, Mr. Chao. How do we make this
1205 work better?

1206 Now, is it accurate to say that CMS is getting the Web
1207 site up and running?

1208 Mr. {Chao.} Yes.

1209 Mr. {Waxman.} Okay, and is it accurate that CMS has
1210 crossed--Center for Medicare and Medicaid Services, that is
1211 the department--part of HHS that is working on it, they have
1212 crossed 200 items off its punch list?

1213 Mr. {Chao.} Correct.

1214 Mr. {Waxman.} And can you give me a few examples of
1215 important issues that have recently been addressed?

1216 Mr. {Chao.} Issues related to the enrollment
1217 transactions that had some data issues--data quality issues
1218 that were fixed, and now issuers can receive that data
1219 without doing a lot of cleaning up of that data. So--

1220 Mr. {Waxman.} Um-hum.

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1221 Mr. {Chao.} --data quality has improved. The daily
1222 transactions that we send to them have improved.

1223 Mr. {Waxman.} Um-hum.

1224 Mr. {Chao.} The response times for the Web site have
1225 improved. The error rate of people experiencing some level
1226 of difficulty with moving from stage to stage in their online
1227 application, that has been reduced and improved.

1228 Mr. {Waxman.} Well, in fact, Jeff Zients, the
1229 Administration's point person on this whole Web site,
1230 announced on Friday that you have dropped your error rate
1231 from below--from 6 percent to below 1 percent, and you have
1232 cut the average wait time for page loading from 8 seconds to
1233 less than 1 second. What do these improvements look like to
1234 the average consumer going on the site?

1235 Mr. {Chao.} I think they become transparent to the
1236 user. The user then can get at the task at hand of filling
1237 out their information, of finding out if they are asking for
1238 a premium tax credit, that they are calculated timely, and
1239 they are proceeding ahead in the application so that they can
1240 apply some, all or none of that premium tax credit to their
1241 plan compare so that they can look at the offsets that occur,
1242 and what the final premium should be, to make their selection
1243 and to go through the process in a very efficient and speedy

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1244 fashion, as compared to what they experienced on day 1.

1245 Mr. {Waxman.} How about the overall stability of the
1246 site? It was down frequently in the early weeks. Has that
1247 improved?

1248 Mr. {Chao.} Yes, certainly. I think we do have regular
1249 maintenance windows, but those maintenance windows are used
1250 to implement these improvements that you have been hearing
1251 about.

1252 Mr. {Waxman.} So numbers seem to be getting better, and
1253 I expect we will see more improvements. The anecdotal
1254 evidence I get is that the site is getting better, slowly but
1255 surely, and that explains why the enrollment rate in November
1256 is speeding up significantly. In fact, I do have more than
1257 anecdotes, I have some figures. In Massachusetts, where they
1258 started a similar program, it started off slowly, only 3/10
1259 of a percent overall enrollees for private coverage signed up
1260 in the first month, and then thus far, in the Affordable Care
1261 Act, 1.5 percent. So both started slowly. We are even ahead
1262 of what Massachusetts was. But after that, there was a surge
1263 in enrollment as people got closer to deadlines.

1264 The LA Times reported that ``a number of states that use
1265 their own systems are on track to hit enrollment targets for
1266 2014 because of a sharp increase in November. California,

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1267 which enrolled 31,000 people in private plans last month,
1268 nearly doubled that in the first 2 weeks of this month, and
1269 several other states are outpacing their enrollment
1270 estimates. In Minnesota, enrollment in the second half of
1271 October was triple the rate of the first half.'" So we see
1272 an acceleration, even in the federal marketplace. New York
1273 Times reported that the federal marketplace has nearly
1274 doubled its private plan enrollment in just the first 2 weeks
1275 of November.

1276 We are not where we need to be, but we are seeing
1277 improvements, and this increased pace of people going back on
1278 the site successfully is, to me, very encouraging. So rather
1279 than just attack the healthcare law or look for ways to
1280 undermine it, we ought to try to make it work, and we are
1281 anxious to make sure that you do your job of getting the Web
1282 site and all of that working, and if we need any legislative
1283 change, call on us because we are ready, willing and able to
1284 act in that regard.

1285 Yield back my time.

1286 Mr. {Murphy.} The gentleman's time has expired.

1287 Now recommend--now recognize for 5 minutes the gentleman
1288 from Texas, Dr. Burgess.

1289 Dr. {Burgess.} And thank you, Mr. Chairman. Thank you

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1290 again, Mr. Chao, for being here.

1291 In response to one of Dr. Murphy's questions about a
1292 breach of the system, you responded that you could not talk
1293 about it in open session, that it would require a classified
1294 briefing. Is that correct? Did I hear you correctly?

1295 Mr. {Chao.} Correct. That was--that is how I was
1296 instructed by our department.

1297 Dr. {Burgess.} Very well. I would like to go on the
1298 record as asking that that classified briefing with staff--
1299 bipartisan staff occur. Can I get your commitment on trying
1300 to make that happen?

1301 Mr. {Chao.} Yes, sir.

1302 Dr. {Burgess.} Thank you. So the much-talked-about Red
1303 Team discussion document from The Washington Post this
1304 morning, which, of course, you have not seen, and I
1305 appreciate that, but you were interviewed, in response to Mr.
1306 Barton's questions, you were interviewed by the McKinsey team
1307 who were developing this?

1308 Mr. {Chao.} Yes.

1309 Dr. {Burgess.} Do you remember when?

1310 Mr. {Chao.} Approximately April time frame.

1311 Dr. {Burgess.} During the time frame that this was
1312 being developed. Do you recall what you talked about?

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1313 Mr. {Chao.} I think primarily what I was intimating to
1314 the McKinsey team was a schedule challenge, because during
1315 April, we had just started QHP submission, and working with
1316 issuers. They were very nervous that--

1317 Dr. {Burgess.} Excuse me, what is QHP?

1318 Mr. {Chao.} Qualified health plans.

1319 Dr. {Burgess.} Okay.

1320 Mr. {Chao.} I apologize. And in--during that month, it
1321 was a rapid, you know, process to collect all the qualified
1322 health plan data that you see in plan compare on
1323 Healthcare.gov now, as well as in the state-based
1324 marketplaces, and I was remarking on how that is
1325 unprecedented to only give issuers, you know, that short
1326 amount of time to submit their data, and that we needed to
1327 make adjustments in the windows potentially so that they
1328 could come back in and make corrections. You know, that is
1329 an example of what I talked about in terms of the schedule
1330 challenges that we were trying to undertake something large-
1331 scale, fairly complex compared to what is happening in the
1332 insurance landscape today, and that this was new and we were
1333 working on a short time frame.

1334 Dr. {Burgess.} And I will stipulate that those are
1335 legitimate concerns. And so on page 1 of this Red Team

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1336 document, at the bottom of the page, highlighted, the working
1337 group determined that extending the go-live date should not
1338 be part of the analysis, and, therefore, work with a boundary
1339 condition of October 1 as the launch date. In other words,
1340 it didn't matter what the conditions on the ground were, come
1341 hell or high water, October 1 we have got to go live. And
1342 were you given that impression by anyone on your team as you
1343 worked through this?

1344 Mr. {Chao.} Not necessarily characterized that way, but
1345 as I mentioned--

1346 Dr. {Burgess.} Well, let me interrupt you again, my
1347 time is limited. Who would have made a decision like that,
1348 that it doesn't matter--I mean it is like the old saying, it
1349 doesn't matter what--don't check the weather, we are flying
1350 anyway. Who would make a decision like that?

1351 Mr. {Chao.} I think the decision ultimately is made,
1352 you know, by Marilyn Tavenner and, you know, a team of folks,
1353 I suppose, that she works with. But as the administrator,
1354 she sets the deadlines for my work, and--

1355 Dr. {Burgess.} Now, some of the people that are
1356 referenced in the report given to the committee by McKinsey,
1357 that people that had discussions in the Whitehouse, the old
1358 Executive Office Building, people like Nancy Endoparell, Jean

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1359 Lambru, do you know if they were involved in these decisions?

1360 Mr. {Chao.} I can't speak to that. I don't--didn't
1361 hear anything about those discussions.

1362 Dr. {Burgess.} Have you been in meetings with Jean
1363 Lambru and Nancy Endoparell?

1364 Mr. {Chao.} Yes.

1365 Dr. {Burgess.} And what--could you characterize those
1366 meetings?

1367 Mr. {Chao.} The ones that I remember were dealing with
1368 coordination with IRS on their FTI, federal tax information,
1369 requirements, security protections and the Privacy Act with
1370 SSA.

1371 Dr. {Burgess.} At any point during those meetings, did
1372 it come up with the concern that we may not be ready trying
1373 to integrate all of these moving parts by October 1?

1374 Mr. {Chao.} Not in that context, no.

1375 Dr. {Burgess.} In any context?

1376 Mr. {Chao.} You know, concerns about whether if
1377 agencies were working closely together, but not really in the
1378 context of October 1, no.

1379 Dr. {Burgess.} One of the other things that keeps
1380 coming up and--repeatedly in this report is that, number 1,
1381 there is going to be--there were evolving requirements, there

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1382 wasn't a consistent endpoint, there were multiple definitions
1383 of success, and in spite of all of the concerns brought up by
1384 the report, it must launch at full volume. I mean it almost
1385 sounds like a recipe for disaster, doesn't it? You are
1386 changing the definition as it goes along, you are not allowed
1387 to change the date, and you have got to launch at full
1388 volume. That is a pretty tall order, isn't it?

1389 Mr. {Chao.} It is.

1390 Dr. {Burgess.} Well, let me ask you this. How does it
1391 make you feel to know that there was this kind of report out
1392 there, and that other people knew about it, people in the
1393 Whitehouse, people within the Agency, and you have been the
1394 primary point man out there and no one discussed it with you?
1395 How does that make you feel?

1396 Mr. {Chao.} I am actually not terribly hurt by it or
1397 surprised by it. I think the information contained within it
1398 is something that I live on a day-to-day basis to try to
1399 deliver a working system. I--

1400 Dr. {Burgess.} You are playing into everyone's worst
1401 fear about what it is like to be in the bureaucracy.

1402 Let me ask you this. One of the things brought up in
1403 this report is that there is not a single implementation
1404 leader--

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1405 Mr. {Murphy.} Gentleman's time has expired.

1406 Dr. {Burgess.} --do you feel during your time that
1407 there has been a single implementation leader that you could
1408 look to for advice and direction through this?

1409 Mr. {Chao.} I think I have looked to several because of
1410 how--

1411 Dr. {Burgess.} Name one.

1412 Mr. {Murphy.} Gentleman's time has expired. We are
1413 going to need to follow up with that. So we will submit
1414 those questions for the record too.

1415 Now recognize the gentleman from Texas, Mr. Green, for 5
1416 minutes.

1417 Mr. {Green.} Thank you, Mr. Chairman. And like all of
1418 us, I have some concern, I have some questions in a minute
1419 about the Healthcare.gov, but I want to just say that, you
1420 know, it is frustrating for those of us on this side of the
1421 aisle who supported it, who actually worked a lot of times on
1422 the drafting of different versions of the Affordable Care
1423 Act, to see what happened on October 1 without the rollout.
1424 And to have it successful, that is the way we need to deal
1425 with it, because having been here through also the
1426 prescription drug plan for seniors, that is the way you can
1427 get to the numbers you really need. So hopefully that will

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1428 happen. But the law is still there, and last Saturday in our
1429 district, at least in Houston, because in Texas, we are
1430 unfortunate, we have some of the highest percentage and
1431 numbers of uninsured folks in the country, and in our
1432 congressional district 42 percent of my constituents work and
1433 don't have insurance through their employer. So they could--
1434 they would be qualified to go with the ACA. And we actually
1435 did it by paper. Now, I have to admit, I can't remember
1436 except--and I wasn't around when Medicare was rolled out. I
1437 guess that was the last time we rolled anything out by paper,
1438 but let me give you the results. We had 3 members of
1439 Congress, the Mayor of Houston, our Republican county judge,
1440 and the Secretary of Labor. We actually had 800 families
1441 show up on a Saturday morning and signed in, of course, with
1442 multiple attendees per family, nearly 300 people set up
1443 follow-up appointments after a navigator. We had 88 of the
1444 certified navigators there. And we don't know how many
1445 applications were completed because the number is still be
1446 tallied by navigators and HHS and our regional office out of
1447 Dallas. So there are people out there who want to do it.
1448 And if we have to do it by paper, we will do it, but that is
1449 the frustration we have. We want this to work because there
1450 are millions of people in our country who need this. Now, I

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1451 know my--the majority in the House may not understand that,
1452 but I know in our district they do.

1453 But I don't know if you have a comment, but let me--and
1454 I can get to the Healthcare.gov.

1455 Mr. {Chao.} I think CMS takes to heart the matter, and
1456 I think everyone working on this is absolutely serious about
1457 improving this experience because we know that in districts
1458 like yours, there are quite a few number of people that need
1459 and want to enroll and use this benefit. So we are certainly
1460 working very hard to make that happen.

1461 Mr. {Green.} Well, with that success, believe me, we
1462 are going to do a lot of smaller ones in our district, and
1463 try and work with them and partner with media companies to
1464 maybe get the message out.

1465 I have a few questions about Healthcare.gov and the
1466 important goal I think we both share, and sharing is part of
1467 the success in implementation of the Affordable Care Act,
1468 people can have access to care they need and when they need
1469 it. Part of this goal requires that federal and state
1470 exchanges secure the American people can trust their
1471 information and privacy won't be compromised. How is the
1472 Data Hub used to determine eligibility and enroll applicants
1473 and process appeals different from the data systems used by

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1474 other agencies--federal agencies, such as Social Security or
1475 the IRS?

1476 Mr. {Chao.} How is the Data Hub different?

1477 Mr. {Green.} Than the other agencies who obviously have
1478 up and running ways where Social Security and even IRS you
1479 can file?

1480 Mr. {Chao.} Well, I think what makes it different is
1481 that, for example, SSA is the eligibility agency for
1482 Medicare. So every night, SSA's field offices load data
1483 about accretions and deletions into the Medicare Program, and
1484 we receive a very large file from them every night that we
1485 process for 2 to 3 hours to update all of our systems, so
1486 that providers can see new Medicare beneficiaries accreting
1487 into the system. That is lots of data moving between 2
1488 organizations, and it is stored and it is time-intensive.
1489 The Data Services Hub goes out and, for a requestor of that
1490 data, a valid requestor, it reads the data where the source
1491 is, transfers it back to the requestor in a secure fashion,
1492 does not remember the contents of that data, and facilitates
1493 that without moving massive, you know, millions of records of
1494 data all at once, all the time, every day. It only transfers
1495 enough data to get the job done.

1496 Mr. {Green.} Were you at the HHS when we have gone

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1497 through two Medicare enrolling by internet? I mean when we
1498 shifted from having to go into a Social Security office to
1499 file the paperwork, you can do it online now.

1500 Mr. {Chao.} Yes. Yes.

1501 Mr. {Green.} And I assume there were some glitches when
1502 that first started.

1503 Mr. {Chao.} Yes.

1504 Mr. {Green.} And, of course, we didn't have a deadline
1505 and a rollout and things like that. It was built in over the
1506 time so you had time to problem solve. And--

1507 Mr. {Chao.} Right.

1508 Mr. {Green.} --our problem is we don't have that time
1509 to problem solve here in later November, and--

1510 Mr. {Chao.} I still remember in mid-'90s, SSA put up
1511 the electronic benefits statement, and after a few months,
1512 they had to take it down and it didn't come back up until
1513 years later--

1514 Mr. {Green.} Well--

1515 Mr. {Chao.} --until they perfected it. Yeah.

1516 Mr. {Green.} Okay, thank you, Mr. Chairman.

1517 Mr. {Murphy.} Gentleman yields back.

1518 Now recognize the gentleman from Louisiana, Mr. Scalise,
1519 for 5 minutes.

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1520 Mr. {Scalise.} Thank you, Mr. Chairman. I appreciate
1521 you having this hearing, and, Mr. Chao, appreciate you coming
1522 to testify before the committee.

1523 We have had a number of hearings like this over the last
1524 few months, trying to find out first how the rollout was
1525 going to work, and of course, we have gotten testimony time
1526 and time again from the Administration that the rollout was
1527 going to be fine. And then I think what is most frustrating
1528 is that when this report came out, this McKinsey report, that
1529 really chronicles the problems that were happening months
1530 ago, back in March and April, at the same time that
1531 Administration officials were telling us that everything was
1532 going to be fine, and to that--and telling American families
1533 that everything was going to be fine when October 1 hit. I
1534 guess there are many things about this that trouble me, but
1535 first, you know, when I look at this, you say you hadn't seen
1536 this report, and I have read through a number of these items
1537 that McKinsey pointed out in the report that they were
1538 telling them to somebody in CMS, around you, over you, under
1539 you, somewhere, but these are things that should have been
1540 just basic testing requirements. I, you know, I used to
1541 write software. I actually wrote test plans for software
1542 rollouts, and, you know, in fact, many of these are just

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1543 basic commonsense things you do. I mean we--if we made one
1544 line of code change, we literally would test that over and
1545 over in multiple ways, let alone major changes.

1546 What this report talks about is chaos at CMS. Nobody is
1547 in charge. They talk about the fact that you had multiple
1548 people that were making multiple changes to--and major design
1549 changes to the system just weeks prior to testing, I mean--
1550 prior to the rollout without testing it. I mean did you have
1551 a test plan, did you--whether or not you read this report,
1552 these are things that you should have been doing anyway. I
1553 mean were you all making changes, big changes all the way
1554 through, and were you testing any of those changes, or just
1555 saying, well, you know, they told us October 1, roll it out
1556 no matter what.

1557 Mr. {Chao.} You have asked a lot of questions in there.

1558 Mr. {Scalise.} Yeah.

1559 Ms. {Chao.} So let me try to recall how to address
1560 them. I think that certainly, yes, if you have this
1561 experience in software development, you need to have solid
1562 requirements before you can actually have good test cases in
1563 which to actually run tests. I think it is an--a dynamically
1564 changing environment of which, if we had more time and we--
1565 and that time would have been devoted to solidifying

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1566 requirements that are translated from policy--

1567 Mr. {Scalise.} You had 3 years. I mean there were 3
1568 years. This is not something that just kind of got plopped
1569 on your desk. I mean the law passed and was signed into law
1570 in 2010. There was a lot of time to prepare for it. The
1571 requirements--the major requirements were changing weeks
1572 before, some of them for political reasons by the Obama
1573 Administration. So you can't just say, well, you know, we
1574 just didn't have enough time. I mean somebody in CMS, and if
1575 it wasn't you, it was--maybe it was Ms. Tavenner or who knows
1576 who it was, but somebody was making all these changes and
1577 saying, gee whiz, I mean, you know, we--let us make big
1578 changes and don't test it because we just want to roll this
1579 thing out no matter what.

1580 Mr. {Chao.} Well, having written software or written
1581 test cases, you know that the requirements come from the
1582 business side or the policy side. And they are subject to
1583 change based upon how your customer or your business--

1584 Mr. {Scalise.} The law didn't change.

1585 Mr. {Chao.} I--

1586 Mr. {Scalise.} The law was passed, and for three years
1587 that law didn't change. The law was there. You knew what
1588 those requirements were. Now, if you make changes in the

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1589 requirements, you also ought to make changes in your test
1590 plan.

1591 Mr. {Chao.} I think the law has a very high-level
1592 expression of requirements that, certainly, you can't develop
1593 code or test cases from. There needs to be a significant
1594 amount of translation into lower level details. And that is
1595 what I mean by a schedule challenges that we have to receive
1596 those requirements and translate them into test cases, test
1597 data, to exercise the system and--as well as build the system
1598 too. So--

1599 Mr. {Scalise.} All right, well, look, they talk in this
1600 report that the contractor received absolutely conflicting
1601 direction between the various entities within CMS.
1602 Conflicting directions within CMS. That is not a requirement
1603 change. That is one person saying do this, and another
1604 person in the same agency saying do something different.
1605 And, by the way, none of that is being tested in the
1606 meantime. That is not evolving requirements, that is chaos
1607 within the Obama Administration where they are literally
1608 changing things and multiple people are changing them and
1609 nobody is talking to anybody.

1610 Mr. {Chao.} Well, I can't speak to how they
1611 characterized it, but I think that in CMS, we have Medicaid

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1612 and CHIP requirements, we have insurance exchange
1613 requirements, oversight requirements, medical loss ratio,
1614 wait review, early retiree reinsurance, pre-existing--
1615 Mr. {Scalise.} And I know you all have that. Look--
1616 Mr. {Chao.} There are lots of--
1617 Mr. {Scalise.} --you have got a job to--
1618 Mr. {Chao.} --all I am saying is--
1619 Mr. {Scalise.} The bottom line is, the bottom line is,
1620 you know, this report lays out the chaos that was going on,
1621 but these--all of this information was known within the
1622 Whitehouse. Reports were being briefed to people in the
1623 Whitehouse. And either President Obama didn't know about it,
1624 in which case people directly under him knew that this thing
1625 was going to be a disaster and just didn't tell him, or the
1626 President did know about it and went out misleading people
1627 anyway. But either way, if the President really didn't know
1628 about this, this report says the Whitehouse absolutely knew
1629 what was going on, and they didn't tell the President. He
1630 ought to be firing these people today. If somebody--if a CEO
1631 went out there and said I am rolling out this project, this
1632 would be just like buying a TV on Amazon, that is what the
1633 President said, and if somebody right underneath him knew
1634 that it wasn't going to be like that, and this report says

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1635 absolutely they knew and they didn't tell the President, he
1636 ought to go and fire every single one of those people right
1637 now and hold them accountable, or maybe that just says that
1638 he did know about it. And we will see what the President
1639 says, but this report is damning.

1640 And I yield back the balance of my time.

1641 Mr. {Murphy.} Gentleman's time has expired.

1642 Just--can you just clarify an answer you gave to the
1643 gentleman here? I thought you said something like, with more
1644 time, you would have done more testing, or something along
1645 those lines. Are you saying you would have liked to have
1646 more time?

1647 Mr. {Chao.} No, I think that is what I mean by there is
1648 a schedule challenges that you are trying to maximize the
1649 time that you have left, as you are trying to extract the
1650 requirements from the policy that is being finalized. The
1651 longer a policy takes to be finalized, the longer it takes to
1652 translate the--

1653 Mr. {Murphy.} Do you wish you would have had more time
1654 to test it?

1655 Mr. {Chao.} I think that is true of every project I
1656 have ever worked on.

1657 Mr. {Murphy.} Thank you.

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1658 Now recognize Mr. Yarmuth for 5 minutes.

1659 Mr. {Yarmuth.} Thank you, Mr. Chairman. Thank you, Mr.
1660 Chao, for your testimony today.

1661 I just want to follow up a little bit on Mr. Scalise's
1662 line of questioning, what--the issue of whether or not you
1663 had 3 years to prepare for this. When was the deadline for
1664 states to decide when they're--they were joining the--doing
1665 their own Exchanges or were going to participate in the
1666 Federal Exchange?

1667 Mr. {Chao.} I think the time frame was the end of 2012.

1668 Mr. {Yarmuth.} End of 2012. So January 1, essentially,
1669 of this past year. And when was the deadline for states to
1670 decide whether they were going to enter into a partnership
1671 with the federal government?

1672 Mr. {Chao.} I believe it was the end of April of 2013.

1673 Mr. {Yarmuth.} So really, the department did--or CMS
1674 did not have 3 years to prepare, and there was probably no
1675 way to guess 3 years ago that only 14 states and the District
1676 of Columbia were going to set up their own Exchanges. Wasn't
1677 the anticipation that far more states would do their own
1678 Exchanges?

1679 Mr. {Chao.} Yes, we were hoping so.

1680 Mr. {Yarmuth.} So the--it really wasn't until this year

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1681 that CMS really understood the magnitude of the volume of
1682 work that the Web site was going to have to accommodate?

1683 Mr. {Chao.} Correct. It is--

1684 Mr. {Yarmuth.} Right.

1685 Mr. {Chao.} --not such a clear binary decision. You do
1686 or you don't. There is still coordination that has to occur
1687 in--

1688 Mr. {Yarmuth.} Right. Thank you for that.

1689 Now, obviously, when we are talking about security, we
1690 are talking about two separate issues; one is the
1691 vulnerability of the system to some kind of outside attack.
1692 I don't know why anyone would really want to attack the
1693 Federal Exchange, but assuming that is an issue. The second
1694 one is, the average citizen is concerned about information
1695 that is there about them. And I think that is one thing we
1696 are most interested here. Mr. Dingell actually asked you
1697 directly about the fact that there really isn't very much
1698 information on the Web site that would be considered private
1699 in nature. And I guess the question I would ask is, are
1700 people who are working with the Exchange now subject to or
1701 vulnerable to a more--a breach of their privacy than they
1702 were under the prior system when the insurance companies had
1703 pages and pages and pages of health information, including

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1704 every doctor they had ever visited, every prescription they
1705 had ever taken, every medical procedure they had undergone
1706 and--over a certain period of time? Would you say that there
1707 was much more vulnerable--vulnerability under that system
1708 than there would be under the Federal Exchange?

1709 Mr. {Chao.} Much more so because so much more personal
1710 information, including health information, was involved in
1711 that process.

1712 Mr. {Yarmuth.} And I think during the course of
1713 questioning we have actually done a pretty good job of
1714 debunking the issue as to whether there really was security
1715 problem here. There is no evidence that there has been, and
1716 I think there really hasn't been any evidence presented that
1717 would make us doubt that. So I am glad about that, and I
1718 think that should encourage Americans to participate more
1719 actively.

1720 And since--one other thing that has come up, and it
1721 involves the question of 80 percent, and it is something I
1722 want to clarify because the press reports have been that the
1723 Administration has said as a metric that 80 percent will be
1724 able to get on the site and smoothly sign up--enroll for
1725 health coverage as of the end of this month. That doesn't
1726 mean that the remaining 20 percent won't be able to access

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1727 affordable quality health insurance, does it?

1728 Mr. {Chao.} No. I can't speak to the exact
1729 percentages, but I think there is a recognition that some
1730 people, whether it be Healthcare.gov or any system, for
1731 example, if you walked into an SSA field office, how many
1732 people can actually get their business done in one visit, as
1733 compared to, you know, the greater majority of people? I
1734 think some people need extra help. They need assistance to
1735 navigate the process, and I think that that is probably what
1736 they were referring to.

1737 Mr. {Yarmuth.} Thank you very much for that.

1738 And I just want to do some shameless self-promotion for
1739 my state right now. As of last Friday, Kentucky, obviously
1740 operating its own Exchange, 48,000 Kentuckians are enrolled
1741 in new health insurance, 41 percent of them are under the age
1742 of 35. Over 452,000 visitors have gone to the Web site,
1743 380,000 people have conducted preliminary screenings to find
1744 out if they are eligible for coverage. And I think most
1745 importantly maybe, over--almost 1,000 businesses have
1746 actually begun the process of signing up for new coverage for
1747 their employees, and over 300 have actually been enrolled and
1748 have been qualified now to offer coverage. So Kentucky is
1749 doing well, and I hope the Federal Exchange will do just as

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1750 well.

1751 I yield back.

1752 Mr. {Murphy.} Gentleman yields back.

1753 Now recognize Mr. Harper for 5 minutes.

1754 Mr. {Harper.} Thank you, Mr. Chairman. And, Mr. Chao,
1755 thank you for your time here today.

1756 And you replied earlier on a follow-up question that the
1757 Chairman had, I believe you said you would have liked to have
1758 had more time for the testing. Did you request more time
1759 from anyone?

1760 Mr. {Chao.} No.

1761 Mr. {Harper.} And can you tell me why you did not
1762 request more time?

1763 Mr. {Chao.} Because I was given a target of October 1
1764 and various other deliver dates, of which I had to stay on
1765 schedule for.

1766 Mr. {Harper.} Did you believe it was ready for October
1767 1?

1768 Mr. {Chao.} I believe we did everything we could to
1769 make sure that the right priorities were set so that we could
1770 deliver a system on October 1.

1771 Mr. {Harper.} And do you believe the system was
1772 delivered on October 1?

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1773 Mr. {Chao.} It was.

1774 Mr. {Harper.} Do you believe--

1775 Mr. {Chao.} It wasn't performing as well as we liked,
1776 and certainly had more glitches than we anticipated, but we
1777 did deliver a system on October 1.

1778 Mr. {Harper.} Do you think glitches is the proper word
1779 to use to describe the rollout?

1780 Mr. {Chao.} I think there are problems. There are
1781 defects if you--you know, glitches is just a word that is
1782 commonly used right now.

1783 Mr. {Harper.} Well, glitches doesn't seem to convey how
1784 serious the failure of the rollout has been, and so here we
1785 are. And, of course, one of the big concerns that we have is
1786 what do you do about making sure that personally-identifiable
1787 information for those who sign up is protected. And on the
1788 report that you have there, on page 11, if I could get you to
1789 take a look at that real quick. On the McKinsey report. At
1790 the bottom of page 11 it says--and, of course, at the top it
1791 says, options that could be implemented to help mitigate key
1792 risks. At the bottom it says, name a single implementation
1793 leader and implement associated government process. Has
1794 there been a single implementation leader named?

1795 Mr. {Chao.} I don't think that is the way it has been

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1796 characterized before by, I think, Marilyn Tavenner, our
1797 administrator, certainly has accepted accountability and she
1798 does run the agency and--

1799 Mr. {Harper.} Certainly, but that is not saying that
1800 she is supposed to be the single implementation leader there.
1801 Is that how you read that report?

1802 Mr. {Chao.} I--but again, I didn't see this until just
1803 this very minute, so I--

1804 Mr. {Harper.} All right, when--you know, I spent some
1805 time here while we were waiting on time to question here, I
1806 went to the Healthcare.gov site, and it took a little while
1807 to try to figure out how in the search to get to the
1808 information on how you protect yourself from fraud in the
1809 health insurance marketplace. And if you--and it takes a
1810 couple of steps to get to this information. So people
1811 probably more sophisticated than I am on this would need to
1812 be tracking this. But if you look at it on the site, it says
1813 how to report suspected fraud, and it said you can report
1814 suspected fraud in one of two ways, and it lists a breakdown
1815 of one way, which is to use the Federal Trade Commission's
1816 online complaint assistant. And I tried that a moment ago
1817 and it was not very successful. It says you can call your
1818 local police department, and then it says you can visit a

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1819 site, the Federal Trade Commission, to learn more about
1820 identity theft. And the second choice is to call the Health
1821 Insurance Marketplace Call Center, and it gives that number.
1822 So if you were the victim of personally-identifiable
1823 information being fraudulently released or obtained, who
1824 would you call first under that scenario?

1825 Mr. {Chao.} The listed call center number. The
1826 marketplace call center.

1827 Mr. {Harper.} And it--

1828 Mr. {Chao.} If you are in a Federally-facilitated
1829 Marketplace.

1830 Mr. {Harper.} Okay, and it says, explain what happened
1831 and your information will be handled appropriately. How do
1832 you define handled appropriately? What is that? How do you
1833 get someone's identity back once it has been compromised or
1834 there has been an identity theft?

1835 Mr. {Chao.} Well, I think there needs to be some
1836 analysis and collection of information to make sure what type
1837 of situation occurred, and then make a decision going forward
1838 there.

1839 Mr. {Harper.} Well, obviously, this is a critical
1840 matter, so some determination made. What is the time frame?
1841 How quickly can someone's life be put back together if this

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1842 were to happen?

1843 Mr. {Chao.} I think it is situationally-dependent, and
1844 I really can't--I am not comfortable--

1845 Mr. {Harper.} Sure.

1846 Mr. {Chao.} --giving you an answer right off--

1847 Mr. {Harper.} You had said earlier that steps were
1848 being taken to prevent unauthorized access to the site. What
1849 about those who may have authorized access but release it in
1850 an unauthorized manner, what protections or safeguards put in
1851 there particularly for those that are the navigators, and the
1852 situation that there has been no background check, unless it
1853 was required in the state, how is that being handled with the
1854 use of navigators?

1855 Mr. {Chao.} I think the premise is that when we issue,
1856 for example, a grant to a navigator organization, or we sign
1857 a computer matching agreement with a state, that there are
1858 rules of behavior and certain, you know, kind of requirements
1859 that are associated with signing that agreement or receiving
1860 that grant.

1861 Mr. {Harper.} Do you have a central reporting location
1862 of the navigators that are in violation or reported in
1863 violation?

1864 Mr. {Chao.} I have to check on that.

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1865 Mr. {Harper.} My time has--

1866 Mr. {Murphy.} Gentleman's time has expired.

1867 Mr. {Harper.} You let us know. My time has expired.

1868 Mr. {Murphy.} Thank you.

1869 Mr. Lujan is recognized for 5 minutes.

1870 Mr. {Lujan.} Mr. Chairman, thank you so very much.

1871 Mr. Chao, you were just presented with a whole series of
1872 hypotheticals. Have any of those hypotheticals happened?

1873 Mr. {Chao.} No, not to our knowledge, no.

1874 Mr. {Lujan.} I appreciate that, and I would suggest,
1875 Mr. Chao, if someone was maliciously using information in a
1876 way that they were not allowed to use it, would that be a
1877 crime?

1878 Mr. {Chao.} Can you repeat that question again?

1879 Mr. {Lujan.} If someone hacked into the Web site, and
1880 was using information in a way that they weren't allowed to
1881 use it, so--and anyway, wouldn't that be considered a crime?

1882 Mr. {Chao.} Certainly, yes.

1883 Mr. {Lujan.} And I believe that we could fully
1884 prosecute those individuals?

1885 Mr. {Chao.} Yes.

1886 Mr. {Lujan.} And I would hope that this committee would
1887 fully support and encourage the Department of Justice to go

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1888 and fully prosecute anyone that is hacking this Web site.

1889 Mr. Chairman, it wasn't too long ago that there was a
1890 hearing that this committee had on Lifeline, and there was--
1891 some of my Republican colleagues were encouraging members--
1892 citizens of the United States to go to visit Obamaphone.net
1893 to sign up for a Lifeline or to get information from a--from
1894 the Web site as to the accuracy of what the program was
1895 about. An hour later, the Web site was taken down, and this
1896 committee, myself and Congresswoman Eshoo asked the FTC to
1897 look into the matter, but they said it appears that in the
1898 fraudulent way that this data was being collected, that the
1899 Web site is now down.

1900 I think we as members of Congress need to be careful
1901 with how we are purporting information out to the American
1902 people. We need to be careful about this. There is not,
1903 again, a member on this committee that doesn't believe that
1904 we should get the Web site working, that we need to get to
1905 the facts of what is happening. And with that being said,
1906 Mr. Chao, I guess two things. Mr. Chairman, there is GAO
1907 report that was published on April 24 of 2012, entitled Cyber
1908 Security, Threats Impacting the Nation, and I would like to
1909 ask unanimous consent to insert it into the record.

1910 Mr. {Murphy.} Sure.

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1911 Mr. {Lujan.} The report, and I would invite everyone in
1912 the committee to take a look at this. It was to the Homeland
1913 Security Department or committee, talking about the threats
1914 that our nation is facing. The intelligence community,
1915 Homeland Security, the Whitehouse, members of Congress Web
1916 sites that have been hacked into. We need to do more in this
1917 area to make sure that we are keeping information secure.

1918 But with that being said, Mr. Chao, this has been talked
1919 about a bit, but on the front page of The Washington Post
1920 this morning, there was an article about a document that was
1921 leaked to the paper by the committee majority. The article
1922 describes an analysis conducted in 2013 by McKinsey and
1923 Company that identified potential risks in the development of
1924 Healthcare.gov. The report shadowed some of the problems
1925 that we now face today.

1926 Mr. Chao, did you see the report at the time it was
1927 published in March and April of 2013?

1928 Mr. {Chao.} No, I did not.

1929 M. {Lujan.} So is it fair to say that you are not the
1930 best person to comment on why the report was done, and how
1931 CMS and HHS responded to its findings?

1932 Mr. {Chao.} Yes.

1933 Mr. {Lujan.} Mr. Chairman, I raise this because it

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1934 illustrates a number of problems with how this has been
1935 handled. In particular, the perception that is created when
1936 you withhold documents from the Democrats on the committee,
1937 and when you play gotcha games by leaking material to the
1938 press without context, it makes it appear that you are more
1939 interested in running a partisan investigation than in
1940 finding the facts, and I certainly hope that that is not the
1941 case, and believe that not to be true, but we need to work
1942 together to get to the bottom of this.

1943 So with that being said, Mr. Chao, what efforts is the
1944 Department of Health and Human Services undertaking to
1945 address the ongoing threats?

1946 Mr. {Chao.} We listed as part of our mitigation
1947 strategy daily and weekly security testing and scans, which
1948 is something we always do, but in this case we do it more
1949 frequently because we understand the sensitive nature of
1950 Healthcare.gov and the trust that--and confidence we have to
1951 obtain from people to come and use the site.

1952 Mr. {Lujan.} And how is the department coordinating
1953 with other federal agencies who maintain Web sites that also
1954 gather personal information?

1955 Mr. {Chao.} I think we work with all of our key
1956 partners that are connected to the Hub to make sure that we

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1957 function under what we call a harmonized privacy and security
1958 framework, and along with the states, have a process and a
1959 program in place to handle certain situations of which there
1960 are incidents that need to be managed, about potential data
1961 breaches. So we have a program, we have a policy, we have a
1962 set of operational procedures in place, work--and
1963 coordinating across all these agencies.

1964 Mr. {Lujan.} And does that include, Mr. Chao, the
1965 intelligence community, the Department of Homeland Security?

1966 Mr. {Chao.} Yes.

1967 Mr. {Lujan.} Very good.

1968 So with that, Mr. Chairman, as I yield back my time, I
1969 just hope that it is clear, Mr. Chao, to you, to the
1970 President, that we are not happy with the rollout right now.
1971 We need to get this working. There are too many vulnerable
1972 Americans that need access to care, and we need to make sure
1973 that we can get them that coverage, in the same way, protect
1974 the information. But I think it is a big step forward that
1975 no longer will individuals have to report the kind of
1976 illnesses or accidents that they have had in their past, so
1977 that they can get care in the future.

1978 And with that, Mr. Chairman, I yield back.

1979 Mr. {Murphy.} Gentleman yields back.

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1980 And without objection, the gentleman's document will be
1981 admitted to the record.

1982 [The information follows:]

1983 ***** COMMITTEE INSERT *****

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|

1984 Mr. {Murphy.} Now the Chair now recognizes the
1985 gentleman from Colorado, Mr. Gardner, for 5 minutes.

1986 Mr. {Gardner.} Thank you, Mr. Chairman, and thank you,
1987 Mr. Chao, for your time before the committee today.

1988 Last week, the President met with several
1989 representatives of the insurance industry to discuss
1990 solutions that may be possible in light of the Healthcare.gov
1991 debacle. Have you had any conversations about changes you
1992 can make to Healthcare.gov to assist the insurance industry?

1993 Mr. {Chao.} I think part of the strategy--I haven't
1994 spoken to the issues myself or been part of those meetings,
1995 but I think as part of the strategy under Jeff Zients is to
1996 improve the experience of consumers, but that involves, you
1997 know, key third parties that are also key to this equation of
1998 getting around those agents and brokers, and working with
1999 issuers to fix, you know, certain aspects of the systems to
2000 make it work better.

2001 Mr. {Gardner.} So have you had any discussions then
2002 about providing insurance companies with the ability to
2003 directly enroll, or anybody in your agency department?

2004 Mr. {Chao.} We had designed a--something called direct
2005 enrollment into Healthcare.gov, or part of that FFM system

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2006 architecture to accommodate that.

2007 Mr. {Gardner.} And so that is ready--that feature has
2008 been turned on or it has not been turned on?

2009 Mr. {Chao.} It was not working well initially, like
2010 many other things, but we have been performing fixes and
2011 optimizing it, and working with issuers to get direct
2012 enrollment up.

2013 Mr. {Gardner.} So have you had any discussions about
2014 giving insurers direct access to information on eligibility
2015 for subsidies?

2016 Mr. {Chao.} Only at--in terms of the result. There is
2017 a series of--

2018 Mr. {Gardner.} That is a--

2019 Mr. {Chao.} --security and of handoffs.

2020 Mr. {Gardner.} --yes--

2021 Mr. {Chao.} Right.

2022 Mr. {Gardner.} That is a yes then?

2023 Mr. {Chao.} Yes.

2024 Mr. {Gardner.} Okay. Thank you for that.

2025 Do you--going back to the question then about the
2026 feature on the Web site, will that happen in the future then
2027 to that question, discussions about giving insurers direct
2028 access to information on eligibility for subsidies? Do you

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2029 believe that will happen in the future?

2030 Mr. {Chao.} It is not really direct access, it is more
2031 of a hand-off, a secure hand-off in which they have collected
2032 enough information about the applicant and their, you know,
2033 or an agent and broker, and this person has given
2034 authorization for a consent to work with them as a third
2035 party.

2036 Mr. {Gardner.} So that is a yes then again as well?

2037 Mr. {Chao.} It is not access direct to eligibility
2038 data, it is a more involved process that protects the
2039 person's information.

2040 Mr. {Gardner.} But they will be getting the--the
2041 insurance company will be getting the subsidy access?

2042 Mr. {Chao.} They don't get to calculate it. We--that
2043 is a marketplace--

2044 Mr. {Gardner.} But they will have information on the
2045 eligibility for the subsidies directly?

2046 Mr. {Chao.} Only as a result of the marketplace
2047 handling that data, not touching that eligibility data
2048 themselves.

2049 Mr. {Gardner.} When--the committee has been reviewing
2050 materials that indicates that some parts of Healthcare.gov
2051 were not completed before the launch, as we have discussed

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2052 here. What portion or percentage of the Web site remained to
2053 be created when you launched on October 1?

2054 Mr. {Chao.} I don't have an exact percentage. I think
2055 some of previous conversations when people ask about whether
2056 things were complete, I look at it in terms of overall
2057 marketplace systems--

2058 Mr. {Gardner.} So you have never talked about what is
2059 complete, what is not complete, whether it is--how much to
2060 go?

2061 Mr. {Chao.} I think it was a set of priority functions
2062 that needed to be in place. Like, for example, you had to
2063 authenticate an individual. That is a key function that had
2064 to be done.

2065 Mr. {Gardner.} Well, how much do we have to build today
2066 still? I mean what do we need to build, 50 percent, 40
2067 percent, 30 percent?

2068 Mr. {Chao.} I think it is, just an approximation, we
2069 are probably sitting somewhere between 60 and 70 percent,
2070 because we still have to build the system--

2071 Mr. {Gardner.} But 60 or 70 percent that needs to be
2072 built still?

2073 Mr. {Chao.} Because we still have to build the payment
2074 systems to make payments to issuers in January.

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2075 Mr. {Gardner.} So it is--let me get this correct, 60 to
2076 70 percent of Healthcare.gov still needs to be built?

2077 Mr. {Chao.} It is not really Healthcare.gov; it is the
2078 Federally-facilitated Marketplace--

2079 Mr. {Gardner.} But the entire system that the American
2080 people are being required to rely upon--

2081 Mr. {Chao.} That part is there.

2082 Mr. {Gardner.} --60 to 70 percent--

2083 Mr. {Chao.} Healthcare.gov, the online application,
2084 verification, determination--

2085 Mr. {Gardner.} That is--

2086 Mr. {Chao.} --plan compare, getting enrolled,
2087 generating enrollment transaction, that is 100 percent there.

2088 What I am talking about is--

2089 Mr. {Gardner.} But the entire system is 60 to 70
2090 percent away from being complete?

2091 Mr. {Chao.} Yeah, there is the back office systems, the
2092 accounting systems, the--

2093 Mr. {Gardner.} Thank--

2094 Mr. {Chao.} --payment systems--

2095 Mr. {Gardner.} Thank you for that.

2096 Mr. {Chao.} --they still need to be--

2097 Mr. {Gardner.} And how--of those 60 to 70 percent of

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2098 systems that are still being built, how are they going to be
2099 tested?

2100 Mr. {Chao.} You mean the remaining--

2101 Mr. {Gardner.} Yes.

2102 Mr. {Chao.} --30 to 40 percent? How are they going to
2103 be tested?

2104 Mr. {Gardner.} Yes.

2105 Mr. {Chao.} In the same exact manner we tested
2106 everything else.

2107 Mr. {Gardner.} Is it difficult to review the new parts
2108 of the website while it is operating?

2109 Mr. {Chao.} It won't affect the front end--the front
2110 part--

2111 Mr. {Gardner.} But that is pretty difficult, isn't it?

2112 Mr. {Chao.} Excuse me?

2113 Mr. {Gardner.} It is pretty difficult to review it
2114 while it is in operation, correct?

2115 Mr. {Chao.} No, it doesn't involve the front part.
2116 The--

2117 Mr. {Gardner.} Right, but where it is operating within--
2118 -

2119 Mr. {Chao.} --eligibility--when we are trying to
2120 calculate a payment, derive a payment, do data matches on the

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2121 back end, that doesn't affect the Healthcare.gov operations.

2122 Mr. {Gardner.} How long will you have to test those
2123 parts that you are building?

2124 Mr. {Chao.} They are an ongoing basis. Depends on
2125 their build schedule.

2126 Mr. {Gardner.} So is it appropriate, given the
2127 performance of Healthcare.gov where we are at right now, to
2128 launch any new applications or features without testing them
2129 heavily before they go live?

2130 Mr. {Chao.} We are testing.

2131 Mr. {Gardner.} Mr. Chairman, I have several other
2132 questions and will follow up with you, but thank you for your
2133 time.

2134 Mr. {Murphy.} Thank you.

2135 Now recognize Mr. Welch for 5 minutes.

2136 Mr. {Welch.} Thank you very much. Thank you for the
2137 hearing.

2138 There is a mutual desire to get this thing to work, and
2139 there are really two models that we can use to deal with the
2140 failure rollout. One is to fix it, and the other is to use
2141 it as fodder to re-litigate the battle about whether
2142 healthcare is the law of the land. And my hope is that we
2143 are past that. There is an absolute urgency to make things

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2144 work, and I know, Mr. Chao, that is your job, and I just want
2145 to put this into context. We had a big battle in this
2146 Congress, I was not here, over the passage of Medicare Part
2147 D. It was a largely partisan vote. The Republicans, under
2148 George Bush, were for it, most of the Democrats were against
2149 it, but it passed in a very close, tense vote. And my
2150 understanding is that as it then went into the implementation
2151 phase which required a computer program and a Web site, there
2152 were lots of significant difficulties with that program, and
2153 there were concerns about having it work.

2154 And I just want to ask you a little bit about that
2155 history, so that we have a context for the challenges we have
2156 today, not at all as an excuse because there is real unity
2157 about needing to get this fixed, but is the actions we take--
2158 are the actions we take about getting it fixed or about
2159 trying to derail and scuttle the overall healthcare program.
2160 America is going to have to judge.

2161 But can you give us a sense what was going on inside the
2162 Agency when you were preparing the Medicare Part D Web site
2163 in 2005, and were these--were there concerns and issues that
2164 needed to be addressed then?

2165 Mr. {Chao.} The biggest and most prominent example that
2166 I can recall was the concern around auto-assignment and auto-

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2167 enrolling Medicare--Medicaid full benefit dual eligibles to
2168 receive a Part D prescription drug benefit, and switching
2169 them over as of January 1, and that we had sent these
2170 enrollment files out to the plans--the health plans or Part D
2171 sponsors, around November, and in December it was some
2172 realization, you know, last minute realization that
2173 pharmacists and pharmacies were--who were on the frontline of
2174 helping these beneficiaries, required, you know, some access
2175 to information to help them navigate this new change. So as
2176 an example, we scrambled and we developed a method for
2177 pharmacies to actually get access through authorizations to
2178 Medicare enrollment data for the dual eligibles that were
2179 enrolled so that, at point of sale, they can at least do
2180 things such as, you know, three day fills--

2181 Mr. {Welch.} Right.

2182 Mr. {Chao.} --just to figure out what plan they might
2183 be in. And, you know, that is just an example. I recall
2184 that was mass scramble, time crunch, had to get it in place,
2185 lots of, you know, working around the clock, lots of urgency,
2186 pushing many, many people, not just on the contractor and the
2187 staff side, but working with the prescription drug industry
2188 as a whole, including pharmacists, to make this happen.

2189 Mr. {Welch.} All right, and those problems continued

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2190 even after the January 1 rollout date, my understanding.

2191 Mr. {Chao.} Correct, because it is not perfected. It
2192 is--it is not so much a technical issue, when you introduce a
2193 new business process, for example, in a procedures, you know,
2194 in an administrative aspect of healthcare, it takes a while
2195 for people to actually understand how that works, you know,
2196 as compared to learning the data system that is involved to
2197 support that business process. So it is a--it is more than
2198 just a technical issue.

2199 Mr. {Welch.} Okay, and is it your view that, as we
2200 ultimately succeeded with Part D, we can ultimately succeed
2201 in terms of the technical Web site issues with
2202 Healthcare.gov?

2203 Mr. {Chao.} Certainly. I think it comes with being
2204 focused and driven to get at the root of the problem and to
2205 fix the systems, because on the technical issue side, it is
2206 solvable, very solvable, and we have shown that it has made
2207 improvements.

2208 Mr. {Welch.} Okay, thank you very much.

2209 I yield back.

2210 Mr. {Murphy.} Gentleman yields back.

2211 Now recognize for 5 minutes the gentleman from Virginia,
2212 Mr. Griffith.

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2213 Mr. {Griffith.} Thank you, Mr. Chairman.

2214 Now, speaking of Medicare Part D, no one was required by
2215 law or force of penalty to subscribe to that, isn't that
2216 correct?

2217 Mr. {Chao.} No, but we did auto-assign, auto-enroll
2218 Medicare--Medicaid dual eligibles into Medicare Part D.

2219 Mr. {Griffith.} But it is a different animal than what
2220 we are dealing with now because a lot of Americans are being
2221 told they can't have their insurance so they are going to
2222 have to sign up through the Exchanges. So I do appreciate
2223 that, but there is a difference.

2224 You know, one of the things that when you get time today
2225 to look at the report, and I think it is a symptom of the
2226 problems that this Web site has had, is that you were not
2227 included in the briefings on the report that has come to
2228 light in the last 24 hours, but when you get a chance to read
2229 that, one of the things you will see is they thought there
2230 ought to be one person overseeing all of the different parts.
2231 And listening to the vendors who previously testified before
2232 this committee, it looked like they were each building their
2233 own part and then, in the last month, they had to squeeze it
2234 all together in the last two weeks, things were changing.

2235 Another part of that report shows us that on a timeline,

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2236 you really want to have your--the--you want to define your
2237 policy requirements prior to finishing the design and
2238 starting the build. Wouldn't you agree with that?

2239 Mr. {Chao.} That is the logical thing to do.

2240 Mr. {Griffith.} It is the logical thing to do, but in
2241 reality, we have heard testimony in this committee that they
2242 were changing policy, we know the big change on July the 2nd
2243 when all of a sudden the employer mandate was allegedly
2244 delayed--the President signed an executive order, I am not
2245 sure it has legal authority, but he did that, delayed that
2246 employer mandate. Further, we know from testimony that there
2247 were changes being made as close to the launch as 2 weeks
2248 before. So based on that, it is--it would be the logical
2249 conclusion that you are going to have significant problems,
2250 wouldn't it?

2251 Mr. {Chao.} With the luxury of hindsight, I can see
2252 that, you know, there are contributors to the way the system
2253 performed when it was unveiled, but that is not--

2254 Mr. {Griffith.} Well, if you--

2255 Mr. {Chao.} But that is not, you know, I need to focus
2256 on fixing this thing.

2257 Mr. {Griffith.} And I know that is your focus is to fix
2258 it now, but also when you take a look at it, when you are

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2259 still defining your policy requirements as late as two weeks
2260 prior to launch, it is very difficult to design and then to
2261 build and then to test a system and have it work, whether it
2262 is the security component or the performance component. It
2263 would be logical to do it in the proper order. When you do
2264 the illogical, you are liable to have problems. And I know
2265 you would agree with that, if you were free to answer
2266 honestly. And I would say to you that I also noticed that
2267 they never--nobody--no one person was ever appointed to head
2268 this up while you were in charge of part of it, and you are
2269 in charge of making part of it work. It looks like there are
2270 at least six different representatives from different
2271 agencies that had a hand in overseeing what was going on, and
2272 no one had control over the others, isn't that correct?

2273 Mr. {Chao.} I think it was a governance committee that
2274 was formed.

2275 Mr. {Griffith.} A governance committee. And--isn't
2276 that interesting. And sometimes when you are trying to
2277 launch a big project like this though, you have to have one
2278 general in charge of the operation. Wouldn't that be
2279 logical?

2280 Mr. {Chao.} I would say that for the technical pieces,
2281 you know, I was responsible for making sure that the

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2282 technical pieces were--

2283 Mr. {Griffith.} All right.

2284 Mr. {Chao.} --organized.

2285 Mr. {Griffith.} And last month, this committee

2286 uncovered a September 27 memorandum indicating that

2287 Healthcare.gov launched without a full security control

2288 assessment. Administrator Tavenner had to attest that she

2289 was aware that the launch carried security risks. Can you

2290 tell us what those risks are specifically?

2291 Mr. {Chao.} I--first of all, I think the incomplete

2292 testing--it was fully security tested through 3 rounds of

2293 testing so that when we--when Marilyn Tavenner signed the

2294 authority to operate on September 27, it had no high findings

2295 and had gone through the appropriate security tests.

2296 Mr. {Griffith.} So you didn't--so what she said was not

2297 accurate, that it had a--did not have a full security control

2298 assessment, she was mistaken when she testified in front of

2299 us on that?

2300 Mr. {Chao.} I think there is a part of that sentence

2301 that might be--it needs clarification. I think what we were

2302 trying to say was that the security control assessment was

2303 not tested for a full entire system of which we were still--

2304 remember, I--we are still building financial management

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2305 aspects of it. I think it was just an acknowledgement that
2306 the--100 percent of the system was not complete at that time.

2307 Mr. {Griffith.} Okay, and it is still not complete
2308 today, and the people of America want to know, you know, what
2309 is the security going to be--

2310 Mr. {Chao.} Well--

2311 Mr. {Griffith.} --if it is not completed on January 1.

2312 Mr. {Chao.} The October 1 pieces that were necessary,
2313 such as ensuring security privacy for those functions that I
2314 mentioned, were tested.

2315 Mr. {Griffith.} Okay, and I appreciate that, but what
2316 can we expect on January 1?

2317 I apologize, I yield back.

2318 Mr. {Murphy.} Thank you. And by the way, our prayers
2319 are with the family of State Senator Creigh in Virginia who
2320 is, I guess, in critical condition.

2321 Mr. {Griffith.} If I might--

2322 Mr. {Murphy.} Right.

2323 Mr. {Griffith.} --take a--since you bring it up. If I
2324 might take a moment of personal privilege. I do appreciate
2325 your prayers. Creigh and I were in opposite parties, but
2326 just like on this committee, you form friendships. And he
2327 served with me in that Virginia House of Delegates before he

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2328 went on to the Senate and went on to run for other offices.
2329 But he still is sitting Senator, and it obviously has shaken
2330 everybody in Virginia. And he is a good man and our prayers
2331 are with him, and I encourage everybody to say a prayer for
2332 Senator Deeds and his family.

2333 Mr. {Murphy.} I thank the gentleman.

2334 Now turning to Mr. Tonko for 5 minutes.

2335 Mr. {Tonko.} Thank you, Mr. Chair.

2336 I would like to continue on that recent questioning of
2337 the document that my Republican colleagues have released.

2338 Mr. Chao, this document was signed, I believe, on
2339 September 27, and it is an ATO, an authority to operate,
2340 memorandum to operate the Federally-facilitated Marketplace
2341 for 6 months, and implement a security mitigation plan.

2342 Mr. {Chao.} Correct.

2343 Mr. {Tonko.} Can you tell us, are ATO's commonly used
2344 in federal data systems?

2345 Mr. {Chao.} Yes. It is the, in essence, the last
2346 official sign-off to authorize a federal system to go into
2347 operations.

2348 Mr. {Tonko.} Thank you. And can you tell us why
2349 Administrator Tavenner signed this ATO rather than, well,
2350 perhaps other officials that might report to the

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2351 administrator?

2352 Mr. {Chao.} I think the span of the stakeholders that
2353 were involved across the Agency has--we had not had a system
2354 that had this unprecedented involvement of so many different
2355 components, so that the recommendation by our chief
2356 information officer was to make a recommendation for the
2357 administrator to actually sign off on this, because she runs
2358 the entire agency.

2359 Mr. {Tonko.} And the fact that she signed it is good
2360 news? It is an indication, I would believe, that officials
2361 at the highest level of CMS were briefed on and taking
2362 responsibility for site security?

2363 Mr. {Chao.} Correct, yes.

2364 Mr. {Tonko.} Now, as I understand it, this document
2365 describes security testing for the Healthcare.gov Web site.
2366 It says that security testing of the marketplace was ongoing
2367 since inception and into September 2013. In fact, it says
2368 that, and I quote, ``throughout the 3 rounds of security
2369 control assessment testing, all of the security controls have
2370 been tested on different versions of this system.'' Is that
2371 correct?

2372 Mr. {Chao.} Correct.

2373 Mr. {Tonko.} But the document goes on to say that

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2374 because of system readiness, a complete security assessment
2375 of all the security controls in one complete version of the
2376 system was not performed. It says that this lack of testing,
2377 and I quote, ``exposed a level of uncertainty that could be
2378 deemed as a high risk.''

2379 Mr. {Chao.} I didn't actually--I had recommended as
2380 part of that decision memo and I think at that time, as I
2381 mentioned earlier, you know, it is semantics, you know, not
2382 100 percent of the system is built so you can't really
2383 consciously say you have it all available in one place to
2384 fully test, because not everything was needed for October 1.
2385 Only essential pieces involving Healthcare.gov were tested
2386 for security.

2387 Mr. {Tonko.} So the document then indicated that CMS
2388 postponed a final security assessment screening, right, and
2389 the--in its place, CMS did put in place a number of
2390 mitigation measures. And it concluded that these measures
2391 would mitigate the security risks.

2392 I want to take a moment to ask you about the September
2393 27 ATO, and how the risks identified are being addressed.
2394 Can you describe their recommendations in that September 27
2395 memo?

2396 Mr. {Chao.} You mean in terms of mitigations?

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2397 Mr. {Tonko.} Yes.

2398 Mr. {Chao.} Okay, so on a daily basis, we run antivirus
2399 scans every 3 minutes, malware scans every 3 minutes, data
2400 full monitoring is a continuous effort, threat protection
2401 analysis against known bad IP's or hackers, I mentioned that
2402 in my opening remarks that it is continuous. On a weekly
2403 basis, we monitor operating system compliance, infrastructure
2404 system compliance, we conduct penetration testing,
2405 authenticated and unauthenticated, by marketplace security
2406 teams. We have a 24 by 7 security operations team. We
2407 conduct additional penetration testing, authenticated and
2408 unauthenticated, by another group of security professionals
2409 in CMS that report under our chief of information security
2410 officer. We also conduct application software assurance
2411 testing, which is occurring biweekly. And on a monthly
2412 basis, we produce a plan of actions and milestones that keeps
2413 track and reports on any discovered weaknesses during all of
2414 this monitoring.

2415 Mr. {Tonko.} So CMS is taking action that was
2416 recommended in the ATO?

2417 Mr. {Chao.} Correct.

2418 Mr. {Tonko.} And do you have confidence in these and
2419 other measures you are taking to protect the security of

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2420 Americans' personal information?

2421 Mr. {Chao.} I have high confidence.

2422 Mr. {Tonko.} Okay. As it--I understand it here, the
2423 remedial actions and the ongoing security testing are
2424 protecting the security of the Web site.

2425 Mr. {Chao.} Yes.

2426 Mr. {Tonko.} And so perhaps the message coming from my
2427 Republican colleagues is that they do not want the Web site
2428 to work, and that they want to scare people from going on the
2429 Web site, when, in fact, we are hearing that security has
2430 been provided for.

2431 Mr. {Chao.} I think we have gone over and above,
2432 because we are very sensitive and we appreciate the
2433 nervousness around this new program with peoples'
2434 information.

2435 Mr. {Tonko.} Well, we appreciate you building the
2436 security of the Web site, and responding to the actions
2437 recommended in the ATO memo.

2438 Thank you so much. I yield back.

2439 Mr. {Murphy.} Thank you. Gentleman's time has expired.

2440 Now recognize the gentleman from Ohio, Mr. Johnson, for
2441 5 minutes.

2442 Mr. {Johnson.} Thank you, Mr. Chairman.

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2443 Mr. Chao, I spent 30 years in information technology as-
2444 -I have been the chief information officer of publicly-traded
2445 companies, as well as the director of the CIO staff at U.S.
2446 Special Operations Command, and I know the pressures that
2447 delivering on a system of this complexity, I know the
2448 pressures that are there.

2449 I assume that you and I have a common goal here today,
2450 and that is to make sure that the American people hear the
2451 truth. Is that an accurate statement?

2452 Mr. {Chao.} That is correct.

2453 Mr. {Johnson.} Okay. Given that then, would it be okay
2454 if you and I have an understanding, because this is two IT
2455 guys talking to one another. If I ask you a question that
2456 you don't understand, would you ask me for clarification so
2457 that we can get to the bottom of it, because we want to dig
2458 down in here into some things that are pertinent?

2459 Mr. {Chao.} Yes, sir.

2460 Mr. {Johnson.} Okay, great. You know, under FISMA,
2461 agencies operating IT systems are required to establish
2462 security baselines, incorporate them into applications and
2463 networks, and test them to see that they are incorporated
2464 correctly. The use and review of this testing plan is
2465 typically known as a security control assessment. Several of

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2466 the security control assessments for Healthcare.gov were
2467 either not completed or otherwise ignored.

2468 So are you familiar with the four security control
2469 assessments that were completed on the various aspects of the
2470 Federally-facilitated Marketplaces?

2471 Mr. {Chao.} Not in intricate detail, but I think I--
2472 going back to what you said about ignored or missed, I think
2473 the most important thing to remember is that on September--

2474 Mr. {Johnson.} Are you familiar with those security
2475 control assessments?

2476 Mr. {Chao.} I--

2477 Mr. {Johnson.} Have you seen or read them?

2478 Mr. {Chao.} I have read the most important one, that is
2479 the one--

2480 Mr. {Johnson.} Have you read all four of them?

2481 Mr. {Chao.} No, not all four.

2482 Mr. {Johnson.} Okay, could you turn to tab 4 of the
2483 document binder that you have in front of you? This is the
2484 security control assessment completed on October 11, 2013.
2485 Are you familiar with the findings of this security control
2486 assessment?

2487 Mr. {Chao.} Yes.

2488 Mr. {Johnson.} Okay. You testified a little earlier

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2489 that it was your opinion, based on what you knew at the time,
2490 that the security control assessments--that security had been
2491 adequately addressed when Administrator Tavenner signed the
2492 document authorizing the operation of the Web site. Is that
2493 correct?

2494 Mr. {Chao.} Yes.

2495 Mr. {Johnson.} But yet you just testified that you were
2496 not aware and you didn't read the security control
2497 assessment, so how can you make that assertion that security
2498 had been adequately addressed when you hadn't even read the
2499 control assessments yourself?

2500 Mr. {Chao.} I am thinking that there might be some
2501 mismatch in versions here. Yours says final report October
2502 11 for Health Insurance Exchange August through September
2503 2013, SCA report. I have the fairly facilitated marketplace
2504 decision security part--

2505 Mr. {Johnson.} Well, I am talking about the one in your
2506 tab there.

2507 {Voice.} Excuse me, can we ask the witness to speak up
2508 a little bit? I am having difficulty hearing him.

2509 Mr. {Chao.} I am sorry.

2510 Mr. {Johnson.} But I have got to move on because I
2511 don't have time to look through the binder.

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2512 Who develops the scope of a security control assessment
2513 before the contractor performs it?

2514 Mr. {Chao.} We have independent contractors that design
2515 our SCA testing.

2516 Mr. {Johnson.} Do you need an application like the Data
2517 Services Hub or the Web site to be complete in order to test
2518 it for purposes of a control--security control assessment?

2519 Mr. {Chao.} I think that depends on, you know, we don't
2520 like testing security--

2521 Mr. {Johnson.} Well, I can assure you that we don't.

2522 Mr. {Chao.} The--in terms of using live data, you know.
2523 So prior to going to production, we tend to conduct security-
2524 -

2525 Mr. {Johnson.} Well, let me ask you a question. Let us
2526 put up a slide. Are you familiar with the term sequel
2527 injection?

2528 Mr. {Chao.} Um-hum.

2529 Mr. {Johnson.} Okay. You know, sequel injection is a
2530 process that hackers use to gain access to sequel databases,
2531 relational databases, through a sequel. This is a screenshot
2532 directly off of Healthcare.gov that you see, if you put a
2533 semicolon in the search box, you get all of those different
2534 breakdowns of sequel injection.

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2535 Have--can you give me any idea how vigorous the testing
2536 was around sequel injection, and are you aware that users
2537 have--potential hackers have the capability to go in through
2538 sequel injection and manipulate these strings?

2539 Mr. {Chao.} I can't speak to the exact--that situation.
2540 I think some of the folks that are coming up behind me in the
2541 other panel might be able to specifically address--

2542 Mr. {Johnson.} I can assure you, Mr. Chairman, that I
2543 still have very serious concerns about the security aspects
2544 of this system.

2545 And with that, I yield back.

2546 Mr. {Murphy.} Thank you. Gentleman's time has expired.
2547 Now recognize Ms. Schakowsky for 5 minutes.

2548 Ms. {Schakowsky.} I want to also focus on this
2549 particular system that the contractor, MITRE--I am here, Mr.
2550 Chao. Yeah, okay.

2551 Mr. {Chao.} Sorry.

2552 Ms. {Schakowsky.} We have heard this morning, we just
2553 heard, about the risks that the contract--contractor, MITRE,
2554 identified when it performed security control assessments for
2555 different components of Healthcare.gov. And at first glance,
2556 they can seem alarming, but my understanding is that all of
2557 these issues were mitigated for the functions on the Web site

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2558 that launched on October 1. It is important to understand
2559 the general point of security testing, to identify any
2560 potential issues so they can be addressed before they
2561 became--become real problems. Asking MITRE to perform these
2562 assessments gives CMS and the contractors the opportunity to
2563 identify and resolve any security vulnerabilities before
2564 anyone's personal information could be put at risk.

2565 So, Mr. Chao, does that sound to you like an accurate
2566 description? Do the security control assessments involve an
2567 iterative process where problems are identified and then
2568 mitigated?

2569 Mr. {Chao.} Yes, that is correctly characterized.

2570 Ms. {Schakowsky.} So, Mr. Chao, I want to walk through
2571 some of these key security assessments to determine whether
2572 the high risks that MITRE identified have, in fact, been
2573 addressed.

2574 In January and February of 2013, MITRE performed a
2575 security control assessment of EIDM, the account creation
2576 function on Healthcare.gov. According to the final report,
2577 MITRE identified several high-risk findings.

2578 So, Mr. Chao, were these high-risk findings resolved and
2579 mitigated before the October 1 start of open enrollment in
2580 the federal marketplace?

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2581 Mr. {Chao.} Yes, they were.

2582 Ms. {Schakowsky.} And the fact is that they were noted
2583 in the--that fact is noted in the MITRE report.

2584 Okay, so MITRE also performed a security control
2585 assessment of the Data Services Hub in August 2013, and again
2586 identified several high-risk findings. Were these findings
2587 resolved and also mitigated before the October 1 launch?

2588 Mr. {Chao.} Yes, and the Hub received authority to
2589 operate in August.

2590 Ms. {Schakowsky.} Yes, and the fact is that was--and
2591 that fact was noted in the report.

2592 I also want to discuss the security control assessment
2593 that MITRE performed over August and September 2013 for the
2594 Health Insurance Exchange. Mr. Chao, were all high risks
2595 identified in this assessment mitigated before October 1?

2596 Mr. {Chao.} Yes.

2597 Ms. {Schakowsky.} I thank you. And what your answers
2598 confirm is that the system worked. MITRE identified
2599 potentially high risks--high security risks, and CMS made
2600 sure that they were mitigated before they would become major
2601 problems.

2602 The MITRE reports do not show a flawed system, they show
2603 that CMS conducted security control assessments to identify

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2604 problems, and then fixed those problems. And I hope that my
2605 Republican colleagues will keep these findings in mind when
2606 they talk about the security of Healthcare.gov. We don't
2607 want to alarm the public about security risks that have
2608 already been addressed by CMS and its contractors. It just
2609 seems to me that identifying risks that were named, it is
2610 important also to note that they were all fixed before the
2611 launch on October 1. And I thank you very much for your
2612 testimony.

2613 I yield back.

2614 Mr. {Chao.} Thank you.

2615 Mr. {Murphy.} Gentlelady yields back.

2616 And now I recognize the gentlewoman from North Carolina,
2617 Mrs. Ellmers, for 5 minutes.

2618 Mrs. {Ellmers.} Thank you, Mr. Chairman. And thank
2619 you, Mr. Chao, for being with us today.

2620 Mr. Chao, I have a question about the subsidies, and
2621 some questions about some miscalculations that could be
2622 happening on the Exchange. Press reports have indicated that
2623 some subsidies are being miscalculated. In fact, one
2624 individual the President identified as a beneficiary of
2625 ObamaCare, now can't afford it. And, Mr. Chairman, I would
2626 ask unanimous consent to submit an article from CNN to the

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2627 committee for the report--for the record.

2628 [The information follows:]

2629 ***** COMMITTEE INSERT *****

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|

2630 Mrs. {Ellmers.} The--okay. This is a single mom, has a
2631 teenage son with ADHD, went on the Washington State Exchange,
2632 had gotten an insurance quote for what she would pay at a
2633 gold price. Then she received notification that it was
2634 actually--the quote was actually higher for a silver plan.
2635 More confusion went on. Then even a cheaper plan at bronze
2636 level for \$324. So, in other words, she ended up paying a
2637 lot more.

2638 I guess in my questioning for you is, you know, is this
2639 happening on the Healthcare.gov site or the federal
2640 marketplace?

2641 Mr. {Chao.} I think there are a lot of inputs to how
2642 a--an advanced premium tax credit is calculated. A person
2643 can come back and make some modifications to their income
2644 levels, to their household composition. So--and Washington
2645 is a state-based marketplace, so I can't really speak--

2646 Mrs. {Ellmers.} Um-hum.

2647 Mr. {Chao.} --for that particular case, but I think
2648 that Healthcare.gov allows people the flexibility to try
2649 several ways--

2650 Mrs. {Ellmers.} Um-hum.

2651 Mr. {Chao.} --to determine, you know, what their tax

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2652 credit is.

2653 Mrs. {Ellmers.} Okay, you know, and there again, I am
2654 just going based off the article. It doesn't seem to be that
2655 she had gone back to make any changes, it sounded to me like,
2656 you know, there were miscalculations that she was notified
2657 of. So again, my questioning is, is this happening in the
2658 Federal Exchange?

2659 Mr. {Chao.} I would need some specifics to be able to
2660 answer that.

2661 Mrs. {Ellmers.} Okay.

2662 Mr. {Chao.} I think that if anyone ever does have
2663 issues with believing that their subsidies were incorrectly
2664 calculated, they could certainly call our call center to try
2665 to find out if it was correct or not.

2666 Mrs. {Ellmers.} So that is basically, you know, I am
2667 just asking how someone would address that, or how that would
2668 happen, if there were miscalculations then you could speak to
2669 someone personally and--

2670 Mr. {Chao.} Yes, we have both the call center and what
2671 we call an eligibility support work--

2672 Mrs. {Ellmers.} Um-hum. Do you know if this is what is
2673 happening?

2674 Mr. {Chao.} I--

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2675 Mrs. {Ellmers.} Have you heard any reports of--

2676 Mr. {Chao.} I think there are many calls to the call
2677 center for many different reasons.

2678 Mrs. {Ellmers.} Um-hum.

2679 Mr. {Chao.} I don't know exactly, you know, I can't
2680 tell you there were 10 cases today or--

2681 Mrs. {Ellmers.} Um-hum, okay.

2682 Mr. {Chao.} But if you--

2683 Mrs. {Ellmers.} CGI--well, we can move on. I
2684 appreciate that. CGI, the contractor responsible for
2685 building Healthcare.gov, can you explain your role with them
2686 in the last weeks of September? Did you, you know, were you
2687 in contact with them, were you working with them one-on-one,
2688 did you--were you in their office?

2689 Mr. {Chao.} Yes, I actually--I moved down to Herndon
2690 and lived in a hotel since September 10 to about the last
2691 week of October--

2692 Mrs. {Ellmers.} Um-hum.

2693 Mr. {Chao.} --and I worked at CGI almost every day.

2694 Mrs. {Ellmers.} So you were actually there in their
2695 offices, working out of their offices? Okay.

2696 Mr. {Chao.} Yes.

2697 Mrs. {Ellmers.} One of the things that--I have got

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2698 about a minute left on my time. The President announced a
2699 tech surge to fix the Web site. Who is involved in that
2700 surge?

2701 Mr. {Chao.} There--Todd Park is involved--

2702 Mrs. {Ellmers.} Um-hum.

2703 Mr. {Chao.} --and there are two fellows, one by the
2704 name of Mikey Dickerson, and another by the name of Greg
2705 Girshman.

2706 Mrs. {Ellmers.} Do you know about their compensation?
2707 How are they being compensated?

2708 Mr. {Chao.} I have no insight to that.

2709 Mrs. {Ellmers.} Um-hum. Do they have a contract or did
2710 they have to sign an agreement?

2711 Mr. {Chao.} I don't know.

2712 Mrs. {Ellmers.} Who do these individuals report to?

2713 Mr. {Chao.} I am not--actually, I am not sure who they
2714 have a contract with, or whether if they--

2715 Mrs. {Ellmers.} So--but you are in charge of the
2716 technical component to Healthcare.gov, and they don't report
2717 to you?

2718 Mr. {Chao.} No, they are part of a tech surge team that
2719 is being led by Jeff Zients.

2720 Mrs. {Ellmers.} Okay.

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2721 Mr. {Chao.} Right.

2722 Mrs. {Ellmers.} So Jeff Zients is really the person
2723 that they are reporting to?

2724 Mr. {Chao.} Right.

2725 Mrs. {Ellmers.} Okay, thank you very much.

2726 Mr. Chairman, my time has expired.

2727 Mr. {Murphy.} Gentlelady yields back.

2728 Now go to Mr. Olson for 5 minutes.

2729 Mr. {Olson.} I thank the Chair. Welcome, Mr. Chao.

2730 As you can imagine, sir, folks back home in Texas 22
2731 have one simple question; why, why, why did Healthcare.gov--
2732 .com rollout--.gov on October 1 when most people in CMS,
2733 including yourself and every contractor writing codes and
2734 doing the testing, said stop, stop, stop, stop. We need more
2735 time. This Red Team document is frightening. I refer you to
2736 page 4 of the document, terms like limited end-to-end
2737 testing, parallel stacking of all phases. Stacking is
2738 vertical not parallel. Insufficient time and scope of end-
2739 to-end testing. Launch at full volume. And I refer you to a
2740 7/16 email which you said you were worried that, and this is
2741 a quote, ``crash the plane takeoff.''

2742 With all due respect, sir, it never got to the runway.

2743 It was still waiting at the ramp there, waiting for the

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2744 pilots, the bags, the fuel, waiting for new tires. Using
2745 your analogy and my record as a naval aviator, Healthcare.gov
2746 was a ``hangar queen,'' never ready to fly.

2747 I do want to talk about--the folks back home I work for
2748 are most concerned about protection of their personal health
2749 information. With so little testing, they are concerned
2750 about the lack of security control assessments, SCA's. And
2751 my question is--refers to--I will refer you to the document
2752 brief there, and on--please turn to tab 2, sir. My question
2753 concerns--you guys said that--this is a document you wrote
2754 for Ms. Tavenner, that you needed a 2-part mitigation plan.
2755 And part 2 is basically, you said, 1 of the recommended steps
2756 is to ``conduct a full SCA test on the FFM in a stable
2757 environment where all security controls can be tested within
2758 60 to 90 days of going live on October 1.'' The FFM will not
2759 be completed by November 30, so how can you conduct a full
2760 test of the SCA within 60 days of open enrollment? How could
2761 that happen when you are losing 30 days right off the bat?

2762 Mr. {Chao.} I think the 60 to 90 days refers to the
2763 inclusion of the final piece that needs to be built. What we
2764 mentioned earlier, which I just want to say that it is
2765 actually 30 percent of the systems are left to be developed,
2766 not 70 percent, and that 30 percent represent the payment

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2767 aspect and the accounting aspects of making payments in the
2768 marketplace, for all marketplaces, not just for Federally-
2769 facilitated Marketplaces, and that that functionality has to
2770 be in place for the January 1 effective date enrollments.
2771 And so I think once we have that completed, we could do a
2772 full SCA across the entire system.

2773 Mr. {Olson.} But, sir, the document says October 1
2774 rollout, 60 to 90 days after that. And apparently right now,
2775 we are going back to at least November 1 at the earliest for
2776 the rollout. I don't see how you get 60 days or 90 days of
2777 testing before we are going live again.

2778 And one further question about the SCA's. How many
2779 SCA's did you identify and fix before the rollout on October
2780 1, how many have been identified and fixed after rollout, and
2781 how many are still out there. What is the scope that my
2782 constituents should be worried about?

2783 Mr. {Chao.} The most important aspect is that there
2784 were no high findings in the SCA tests as of the October 1
2785 rollout. And as I mentioned earlier, I read off a list of
2786 mitigation activities that we go over and above any system
2787 that we put into--we deploy and put in operations and monitor
2788 on a daily basis.

2789 Mr. {Olson.} When can you assure us that a full SCA

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2790 will be conducted system-wide? Ever?

2791 Mr. {Chao.} When the last pieces of the system are
2792 completely built, which is not--you know, I don't want people
2793 to think that there hasn't been a full SCA. A full SCA has
2794 been conducted on the pieces that were needed for October 1
2795 for eligibility enrollment. We have yet--we still have to
2796 build the financial management aspects of the system, which
2797 includes our accounting system and payment system and
2798 reconciliation system. Those will also have security testing
2799 involved as well.

2800 Mr. {Olson.} And the full end-to-end--

2801 Mr. {Chao.} Testing--

2802 Mr. {Olson.} --testing, the whole, full system, when
2803 can we expect that to occur, sir? What date?

2804 Mr. {Chao.} I don't have an exact date, but it should
2805 be in--some time in December.

2806 Mr. {Olson.} So 2013, not 2014, 2015, 2016?

2807 Mr. {Chao.} Correct.

2808 Mr. {Olson.} 2013. Okay, sir. One final question, and
2809 I want to refer back to your email from July 16 about needing
2810 to feel more confident about the Healthcare.gov. I am
2811 assuming that some time in the last 4 months you got that
2812 confidence. What gave you that confidence? What was the

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2813 trigger mechanism, when did that happen? Something changed
2814 in the last 4 months.

2815 Mr. {Chao.} I didn't say anything about having more
2816 confidence. I am always cautious, which is what I was trying
2817 to say earlier is that, until this is fixed, until the vast
2818 majority of people have a good experience going through here,
2819 and we have people who want to enroll, get enrolled,
2820 particularly for January 1, I am going to continue to focus
2821 on that along with the rest of the team. And, you know, and
2822 so it is not really about confidence level right now, it is
2823 about focusing on fixing the problem.

2824 Mr. {Olson.} And so we are not fine yet. The hangar
2825 queen is still at the hangar.

2826 I yield back the balance of my time.

2827 Mr. {Murphy.} I thank the gentleman for yielding back.

2828 What we are going to do is give each side 5 more total
2829 minutes, because Ms. DeGette has a couple of clarifying
2830 questions, I have a couple of clarifying questions. If
2831 anybody from my side needs a--some time, we will do that real
2832 quick.

2833 Ms. DeGette.

2834 Ms. {DeGette.} Thank you, Mr. Chairman.

2835 Mr. Chao, I want to thank you for coming and spending

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2836 the morning with us. I am going to try to be quick because I
2837 would like you to get back to wherever you are going and make
2838 this thing work. Okay.

2839 The first thing I want to clear up, because even
2840 though I thought we established it, the--my friends on the
2841 other side continued to ask you about this McKinsey document
2842 at tab 1, and I just want to clarify. You didn't--you
2843 weren't part of this Red Team evaluation, is that right?

2844 Mr. {Chao.} Correct.

2845 Ms. {DeGette.} And you didn't really see this document
2846 until today, is that correct?

2847 Mr. {Chao.} Correct.

2848 Ms. {DeGette.} So there were a lot of questions people
2849 asked you, hypothetical questions people asked you about this
2850 evaluation that you really don't know the answer to because
2851 you weren't involved in the process and you didn't see the
2852 document until today, right?

2853 Mr. {Chao.} Correct.

2854 Ms. {DeGette.} Now, as I understand it, this evaluation
2855 was done in March/April 2013. Is that your understanding as
2856 well, this McKinsey evaluation?

2857 Mr. {Chao.} It is approximately that time.

2858 Ms. {DeGette.} And do you have any knowledge of what

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2859 that evaluation was supposed to be for? Was it a snapshot in
2860 time or do you even know?

2861 Mr. {Chao.} From the interviews that I had with
2862 McKinsey, it was about really 2 things. One was, I spent
2863 some time helping McKinsey understand the program.

2864 Ms. {DeGette.} Uh-huh.

2865 Mr. {Chao.} Meaning how it worked, where we were in
2866 terms of status and schedule. I don't--I suppose it also
2867 includes a point in time kind of an assessment, because I
2868 educated them on exactly what was happening up to the date--

2869 Ms. {DeGette.} Up to that time. Now, on page 4 of this
2870 assessment, I don't really want you to respond to this
2871 because you weren't involved in the document, but I do want
2872 to point out, there were a lot of questions that were asked
2873 today about the current situation, evolving requirements,
2874 multiple definitions of success, et cetera, but the people
2875 who were asking those questions today didn't talk about the
2876 last thing, which is in bold letters in a box, that says CMS
2877 has been working to mitigate challenges resulting from
2878 program characteristics. This was in March or April. And so
2879 without talking about this document necessarily, but I think
2880 what your testimony--what your job is really to identify
2881 issues throughout and try to mitigate them, is that right?

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2882 Mr. {Chao.} Correct.

2883 Ms. {DeGette.} And that is what you have tried to do
2884 throughout.

2885 Mr. {Chao.} It is a constant mitigation set of
2886 activities--

2887 Ms. {DeGette.} And the Administration has said it is
2888 going to try to have the Federal Exchange site working for 80
2889 percent of the people by the end of November. Is that right?
2890 That is what we have been reading in the press.

2891 Mr. {Chao.} That is what the press quoted.

2892 Ms. {DeGette.} Okay.

2893 Mr. {Chao.} I think what we have been saying is the
2894 vast majority of--

2895 Ms. {DeGette.} All right, and do you believe that that
2896 is a reasonable goal at this point?

2897 Mr. {Chao.} I think that is an attainable goal, given
2898 what I have seen so far.

2899 Ms. {DeGette.} Do you think it is going to happen?

2900 Mr. {Chao.} I don't think there are any guarantees. I
2901 think we are still in a stage where we are trying to apply as
2902 much due diligence, acquiring additional assistance, the tech
2903 surge, looking at performance, fixing the functional defects,
2904 along with making sure that security monitoring is an ongoing

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2905 basis. So I think there is still a lot of moving parts that
2906 it wouldn't be prudent to give 100 percent guarantees about
2907 where we are going to be at on an exact date--

2908 Ms. {DeGette.} Well--

2909 Mr. {Chao.} --but I think we are on the right track.

2910 Ms. {DeGette.} You are--okay, but what I will say to
2911 you is, truly, and you have heard this from all of us, all of
2912 us were disappointed that it didn't work on October 1. I am
2913 sure you were too.

2914 Mr. {Chao.} Very.

2915 Ms. {DeGette.} And so we need this to be essentially
2916 working ASAP. For one thing, people who want insurance
2917 coverage as of January 1 have to sign up for--by December 15.
2918 So if it is not working for the vast majority of people by
2919 the end of November, that is going to be hard to do.
2920 Understood?

2921 Mr. {Chao.} We certainly understand that.

2922 Ms. {DeGette.} Okay. One last thing. Someone had
2923 asked you the question--or had made the assertion that 60
2924 percent of the site was not working, but I am told that is
2925 not really accurate, that it is really about 30 percent that
2926 is not working, and most of that is the backend which is the
2927 payment to insurance companies. So that is not necessarily

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2928 the part that has to be working at this moment. Is that
2929 correct?

2930 Mr. {Chao.} Yeah, it is not that it is not working, it
2931 is still being developed and tested.

2932 Ms. {DeGette.} Okay.

2933 Mr. {Chao.} Right.

2934 Ms. {DeGette.} But that is the payment to the insurance
2935 companies.

2936 Mr. {Chao.} Correct.

2937 Ms. {DeGette.} Right.

2938 Mr. {Chao.} Which involves testing with treasury--

2939 Ms. {DeGette.} Okay.

2940 Mr. {Chao.} --and others.

2941 Ms. {DeGette.} All right. Thanks, Mr. Chairman.

2942 Mr. {Murphy.} Thank you.

2943 Recognize myself for 5 minutes.

2944 Just let me follow up here that--then what you are
2945 saying this 30 percent is yet to develop on the payment end.

2946 On October 1, the day this went live, how much of the site
2947 was developed at that time?

2948 Mr. {Chao.} Probably--well 100 percent of all the
2949 priorities that were set for by the business for October 1,
2950 it was up and running.

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2951 Mr. {Murphy.} But--okay, but what about the other
2952 parts?

2953 Mr. {Chao.} I think there was a reprioritization
2954 associated with like shop employer, shop employee and the
2955 Spanish Web site that was--

2956 Mr. {Murphy.} But that--it was crashing for everybody.
2957 We have heard that it wasn't designed for that many people,
2958 it didn't pass a stress test, it never had end-to-end
2959 testing, and you are saying it was 100 percent ready?

2960 Mr. {Chao.} No, it--

2961 Mr. {Murphy.} I just want to make sure I understand.
2962 What--

2963 Mr. {Chao.} When I--it was 100 percent built, meaning--

2964 Mr. {Murphy.} One hundred percent built, but--

2965 Mr. {Chao.} Or the--

2966 Mr. {Murphy.} --just not working.

2967 Mr. {Chao.} Yeah, working functionally and--

2968 Mr. {Murphy.} Well, then it is not built.

2969 Mr. {Chao.} --performing well, that--

2970 Mr. {Chao.} If a car is built but you can't run the
2971 car, that car is not built. If a Web site isn't working, it
2972 is not built.

2973 Mr. {Chao.} Well, I am certainly not going to sit here

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2974 and try to tell you that it was working well. So I do--

2975 Mr. {Murphy.} Yeah, but you said on October 1 it was
2976 100 percent built. I really need to know because you had
2977 said before you wish you had had more time, and you had just
2978 said to Ms. DeGette that your job was to identify issues and
2979 mitigate them. And so there--and since you would have liked
2980 to have had more time, and your job was to mitigate them,
2981 would you have liked to have seen this whole report from
2982 McKinsey that identified the problems so you didn't have to
2983 find them out?

2984 Mr. {Chao.} I don't--I--actually, I don't think it was
2985 necessary because I think this report was for--really for
2986 Marilyn Tavenner and others, and it was written for that
2987 level of consumption and that audience.

2988 Mr. {Murphy.} But you haven't seen this so you don't
2989 know. Or do you know?

2990 Mr. {Chao.} I am just assuming that that is why I
2991 wasn't--

2992 Mr. {Murphy.} Okay, I just want you to stick with facts
2993 you know. So--well, what I am seeing here is from March on,
2994 Marianne Bowen, Jim Kerr, Todd Park, Brian Civak, Michelle
2995 Snyder, Gary Cohen, Bill Coor, Mike Hash, Arianna Colledge,
2996 Todd Park, Katherine Sebelius, William Schultz, Michelle

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2997 Snyder, Brian Civak, Marilyn Tavenner, Mark Childus, Jean
2998 Lambru and Ellen Montz, all had briefings on this. Are those
2999 any people you work with?

3000 Mr. {Chao.} I have been in meetings with several of
3001 those folks.

3002 Mr. {Murphy.} Some of them. Since March and April?

3003 Mr. {Chao.} Yes.

3004 Mr. {Murphy.} And none of them raised any of these
3005 concerns to you, who--and you identified yourself as--your
3006 job was to identify issues and mitigate them, but none of
3007 them identified--

3008 Mr. {Chao.} Within--

3009 Mr. {Chao.} --that, with all of these interviews and
3010 the 200 documents reviewed, that there were these problems?

3011 Mr. {Chao.} Within my day-to-day operational, you know,
3012 requirements to manage the contract, to manage schedule, to
3013 manage staff and--

3014 Mr. {Murphy.} Yeah, but you--what you don't measure you
3015 can't manage. And so I am concerned that this list of people
3016 who you work with were not communicating to you this document
3017 that you knew something existed because you, indeed, were
3018 interviewed on it yourself, but here we have this messy
3019 rollout that didn't work, that crashed, that only 6 people

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3020 signed up the first day, and it--we still are concerned about
3021 problems, and yet it is puzzling to me why these key people
3022 just didn't talk to you about it. Do you have any--they gave
3023 you no hints that this existed?

3024 Mr. {Chao.} Perhaps that--I just was not included in
3025 certain discussions.

3026 Mr. {Murphy.} Well, if you knew then what you know now,
3027 would you have spoken up more with regard to rolling out this
3028 Web site on October 1?

3029 Mr. {Chao.} I wish I had the luxury of a time machine
3030 to go back and change things, but I can't do that.

3031 Mr. {Murphy.} I understand that, but it is a matter
3032 that--did you ask someone at that time for more time?

3033 Mr. {Chao.} No.

3034 Mr. {Murphy.} Why not?

3035 Mr. {Chao.} Because my direction--

3036 Mr. {Murphy.} From?

3037 Mr. {Chao.} --was to--from Marilyn Tavenner, is to
3038 deliver a system on October 1.

3039 Mr. {Murphy.} So Marilyn Tavenner said deliver October
3040 1. She had been in on these briefings from McKinsey that
3041 said there were serious problems. She was in at least 2 of
3042 them I believe. And this was at HHS Headquarters on April 4,

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3043 she was there, and also at the Eisenhower Executive Office
3044 Building on April 6. She was there, she was briefed on these
3045 problems. She said move it for October 1, and you, as the
3046 man who is in charge of making sure this works, she didn't
3047 tell you that those problems existed. Is that what you are
3048 saying today?

3049 Mr. {Chao.} I can't comment on that. I--

3050 Mr. {Murphy.} It is--well, it is either she told you or
3051 she didn't tell you. I am just curious.

3052 Mr. {Chao.} I don't think she told me in the context of
3053 this briefing. I think we have status meetings all the time
3054 in which we talk about ways to mitigate and to--

3055 Mr. {Murphy.} You--so you met with her frequently over
3056 those months, but she never brought up the extent of these
3057 concerns?

3058 Mr. {Chao.} Not the McKinsey report, no.

3059 Mr. {Murphy.} Okay.

3060 Mr. {Chao.} I think we talked about certainly about
3061 issues and priorities for October 1.

3062 Mr. {Murphy.} I see.

3063 Well, I have no further questions, so, Mr. Chao, I
3064 appreciate you spending so much time with us today. We are
3065 going to take a real quick 5-minute break. We recognize our

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3066 next panel of witnesses has been sitting here for a while, so
3067 we will be right back in 5 minutes.

3068 And thank you again, Mr. Chao.

3069 Mr. {Chao.} Thank you.

3070 [Recess.]

3071 Mr. {Murphy.} All right, this hearing is reconvened.

3072 I would now like to introduce the witnesses in the
3073 second panel for today's hearing, and thank you all for being
3074 so patient and waiting.

3075 Our first witness is Jason Providakes. He is the Senior
3076 Vice President and General Manager for the Center for
3077 Connected Government at MITRE Corporation. He is also the
3078 Director of the Centers for Medicare and Medicaid Services
3079 Alliance to Modernize Medicare. Our second witness is Maggie
3080 Bauer. She is the Senior Vice President of Health Services
3081 at Creative Computing Solutions, Inc., also known as CCSi.
3082 She has extensive operations management experience in
3083 consulting, program management, IT infrastructure services,
3084 software development, lifecycle and user support on service-
3085 level drive performance-based programs. And our third
3086 witness is David Amsler. He is the Founder, President and
3087 Chief Information Officer at Foreground Security, Inc. He
3088 has more than 15 years of IT security experience, and he

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3089 oversees the overall customer centered vision and direction
3090 of Foreground Security, its industry-leading offerings and
3091 day-to-day operations.

3092 I will now swear in the witnesses.

3093 You are all aware that the committee is holding an
3094 investigative hearing, and when doing so, has the practice of
3095 taking testimony under oath. Do you have any objections to
3096 taking testimony under oath?

3097 Ms. {Bauer.} No.

3098 {Voice.} No.

3099 Mr. {Murphy.} All the witnesses are in the negative
3100 there. The Chair then advises you that under the rules of
3101 the House and the rules of the committee, you are entitled to
3102 be advised by counsel. Do any of you desire to be advised by
3103 counsel during your testimony today?

3104 {Voice.} No.

3105 Mr. {Murphy.} And all the witnesses have said no. In
3106 that case, would you please rise, raise your right hand and I
3107 will swear you in.

3108 [Witnesses sworn.]

3109 Mr. {Murphy.} And all the witnesses responded, I do.

3110 You are now under oath and subject to the penalties set
3111 forth in Title XCIII, Section 1001 of the United States Code.

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3112 You may now give a 5-minute opening summary of your
3113 statement, Mr. Providakes.

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|

3114 ^TESTIMONY OF JASON PROVIDAKES, SENIOR VICE PRESIDENT AND
3115 GENERAL MANAGER, CENTER FOR CONNECTED GOVERNMENT, MITRE
3116 CORPORATION; MAGGIE BAUER, SENIOR VICE PRESIDENT, HEALTH
3117 SERVICES, CREATIVE COMPUTING SOLUTIONS, INC. (CCSi); AND
3118 DAVID AMSLER, PRESIDENT AND CHIEF INFORMATION OFFICER,
3119 FOREGROUND SECURITY, INC.

|

3120 ^TESTIMONY OF JASON PROVIDAKES

3121 } Mr. {Providakes.} Yes. All right, well, good morning,
3122 Chairman Murphy, and Ranking Member DeGette. My name is
3123 Jason Providakes, and I am here today on behalf of the MITRE
3124 Corporation. I serve as the director of the not-for-profit,
3125 federally-funded research and development center, operated by
3126 MITRE and sponsored by the U.S. Department of Health and
3127 Human Services.

3128 The MITRE Corporation is chartered in the public
3129 interest to apply systems engineering skills and advanced
3130 technology, to address issues of critical national
3131 importance. We accomplish this through operation of research
3132 and development centers that support our government sponsors
3133 with scientific research and development, analysis and

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3134 systems engineering and integration as well.

3135 Known as federally-funded research development centers,
3136 they are operated under a set of rules and constraints
3137 proscribed by the federal acquisition regulations. The rules
3138 are designed to preserve the FFRDC's objectivity and
3139 dependence and freedom from conflict of interest.

3140 MITRE operates FFRDC centers for seven federal agency
3141 sponsors. We were awarded the contract to operate the CMS
3142 alliance to modernize healthcare center about a year ago
3143 following a competitive bid. The center was charged with
3144 assisting CMS in modernizing its operation, and supporting
3145 the implementation of health reform, and the expansion of
3146 healthcare to millions of Americans.

3147 MITRE serves as a technical, independent objective
3148 advisor to CMS. We have been supporting CMS successfully
3149 since about 2005 on a contract basis, prior to the
3150 establishment of the new center. We advise on health IT,
3151 helped plan and develop future policies, we provide technical
3152 evaluations and objective evaluation of business models, and
3153 assess new technology.

3154 As part of its efforts to establish Healthcare.gov, CMS
3155 asked MITRE to conduct security assessments on parts of the
3156 site. And I appreciate the opportunity to clarify what our

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3157 role was in assisting CMS on Healthcare.gov. We provide CMS
3158 with information security support and guidance under two
3159 contracts; the Office of Information Systems, and Enterprise
3160 Information Systems Group. Pursuant to tasks issued under
3161 those contracts, MITRE performed a total of 18 security
3162 control assessments, or SCA's, for components across the
3163 range of CMS enterprise systems. Most of these were
3164 performed on supporting infrastructure and development
3165 components. Six of the SCA's were directly related to
3166 Healthcare.gov, and were performed between September of 2012
3167 and September of 2013.

3168 MITRE performs various tasks as part of overall support
3169 for CMS enterprise security maintenance. A limited amount of
3170 that support is in the form of external penetration testing
3171 relative to CMS Web sites, including Healthcare.gov. MITRE
3172 is not in charge of security for Healthcare.gov. We were not
3173 asked nor did we perform end-to-end security testing. We
3174 have no view on the overall safety or security status of
3175 Healthcare.gov.

3176 MITRE did not and does not recommend approval of--or
3177 disapproval of an authority to operate. Deciding whether and
3178 when to grant an ATO is inherently a governmental function
3179 that derives from the government's assessment of overall risk

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3180 posture. In this case, the government made its ATO decisions
3181 based on a large set of inputs and factors, among which were
3182 6 SCA's performed by MITRE. We do not have visibility into
3183 the many other factors that went into the government's ATO
3184 decision. CMS did not advise MITRE whether or when ATO's
3185 were granted for the marketplace components being tested. In
3186 this case, the government made its ATO decisions based on a
3187 large set of data.

3188 Again, we were not asked to conduct end-to-end testing,
3189 rather we tested specific parts of Healthcare.gov, under a
3190 set of specific parameters established by CMS. We worked
3191 alongside the CMS-designated contractor in the course of
3192 testing to remediate risks as high, and in almost all cases,
3193 we succeeded. Our testing was accomplished in accordance
3194 with standard SCA engineering methodologies. In each case,
3195 we assessed component security control risks against CMS-
3196 defined security control parameters, on a high, moderate or
3197 low scale, and we recommended appropriate risk mitigations.

3198 On site security control assessment, testing typically
3199 begins on a Monday and wraps up within a week. The tests
3200 against CMS-defined security control parameters, over the
3201 course of 5 days of testing, MITRE identifies the risk and
3202 assigns a remediation priorities for risks judged to be high

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3203 and moderate levels. Security testing is designed to flush
3204 out and pinpoint the security weakness of a digital
3205 information system. This enables corrective remediations to
3206 be applied, and also allows the system operator to make
3207 necessary business judgments and tradeoffs about the overall
3208 system.

3209 Because our role in performing the security control
3210 tests was limited in both time and scope, MITRE has no
3211 insight into how assessed security control risks were
3212 handled, or what other risks may have surfaced subsequent to
3213 the date of testing. Judgments about the potential impact of
3214 assessed security control risks on overall system operation
3215 or performance were business judgments made by CMS as part of
3216 the operating authority.

3217 Through our broader partnership with the federal
3218 government, we remain committed to assisting CMS in working
3219 to enhance the care and delivery of healthcare for all
3220 Americans.

3221 I would be happy to respond to your questions. Thank
3222 you.

3223 [The prepared statement of Mr. Providakes follows:]

3224 ***** INSERT B *****

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3225 Mr. {Murphy.} Thank you.

3226 Now turn to Ms. Bauer for her opening statement.

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|

3227 ^STATEMENT OF MAGGIE BAUER

3228 } Ms. {Bauer.} Good afternoon, Chairman Murphy, Ranking
3229 Member DeGette. My name is Maggie Bauer and I am a Senior
3230 Vice President at Creative Computing Solutions, Inc., CCSi.

3231 I have responsibility for CCSi's federal health
3232 contracts, including the Centers for Medicare and Medicaid
3233 Services, Veterans Affairs, the Department of Health and
3234 Human Services National Institutes of Health, and the
3235 Military Health Service.

3236 In addition to health-related services, CCSi delivers
3237 program and project management service--services, cyber
3238 security services and enterprise systems engineering,
3239 exclusively to the federal government.

3240 CCSi was founded in 1992 by Dr. Manju Bewtra.

3241 In August of 2012, CMS awarded CCSi a contract to
3242 provide security oversight of the CMS e-cloud. The e-cloud
3243 refers to CMS's virtual data center, which hosts systems and
3244 applications that support the Affordable Care Act.

3245 Foreground Security is their subcontractor, and we function
3246 as a fully integrated team.

3247 CCSi's role on this contract is to provide security

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3248 operations monitoring and management, including 24 by 7 by
3249 365 security monitoring from a secure operation center,
3250 otherwise known as a SOC. We monitor the perimeter firewalls
3251 and network devices for the e-cloud, and we scan applications
3252 for security incidents. These scans do not measure or track
3253 availability, up/downtimes or latency. If we detect an
3254 anomaly, we follow the CMS-approved incident response plan
3255 procedures for identified security incidents, such as network
3256 security configuration flaws or vulnerabilities in the
3257 network, security devices or in applications. CCSi's
3258 contract does not extend to remediating security incidents.

3259 CCSi's scope of work includes configuration, tuning,
3260 monitoring and management of CMS government-furnished
3261 equipment that resides in the Verizon Terremark security
3262 monitoring zone. We review log files, we conduct event
3263 analysis, we provide reporting on security incidents, all of
3264 this under the direction and supervision of CMS.

3265 Activities involving the development, scaling, testing,
3266 release or administration of the Federal Exchange Program,
3267 Healthcare.gov, the Federal Exchange, or the Federally-
3268 facilitated Marketplace are not within the scope of our
3269 contract.

3270 I would be pleased to answer any questions that you

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3271 have. Thank you.

3272 [The prepared statement of Ms. Bauer follows:]

3273 ***** INSERT C *****

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3274 Mr. {Murphy.} Thank you, Ms. Bauer.

3275 Mr. Amsler, you are recognized for 5 minutes.

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3276 ^STATEMENT OF DAVID AMSLER

3277 } Mr. {Amsler.} Thank you, sir.

3278 Chairman Murphy, Ranking Member DeGette, members of the
3279 subcommittee, good afternoon and thank you for inviting me to
3280 testify at this hearing on the security of the Web site,
3281 Healthcare.gov.

3282 I am the president and chief information officer of
3283 Foreground Security. I also founded the company. We provide
3284 cyber security consulting, training and services for both
3285 private sector and government agencies. Our clients include
3286 Fortune 100 companies, smaller but highly-targeted firms, and
3287 government agencies.

3288 We defend our customers against an increasingly
3289 intricate threat and threat actors, through an integrated
3290 approach that entails building security architecture and
3291 assessing, monitoring and responding to attacks against our
3292 customer environments.

3293 Foreground Security is a small but growing dedicated
3294 cyber security business located in Herndon, Virginia, and
3295 Florida. Our roughly 100 employees are highly trained and
3296 committed to serving our clients.

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3297 Foreground Security is one of the companies hired to
3298 help develop a robust operational security management program
3299 for the new virtual data center created to implement the
3300 Affordable Care Act. We are subcontracted to our teammate,
3301 Creative Computing Solutions, Inc., or CCSi, which is the
3302 prime contractor for the Centers for Medicare and Medicaid
3303 Services.

3304 Our role with CCSi includes a number of objectives
3305 relating to the security environment of Healthcare.gov. I
3306 think of our role as encompassing 3 phases. First is the
3307 creation of the security monitoring environment. This
3308 entailed getting key staff in place, identifying needed
3309 security monitoring software and hardware, and building out a
3310 dedicated security operation center, or SOC, from which all
3311 monitoring is performed. Second is building those security
3312 monitoring capabilities identified in phase 1 into the cloud
3313 environment itself. This has been the most challenging part
3314 of our contract, in large part because we have had to
3315 construct security monitoring capabilities while the system
3316 itself is being built. Our work on this phase continues.
3317 And third is actually monitoring the environment, which
3318 itself can be thought of as having two components. One is
3319 day-to-day, continuously searching for malicious activities

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3320 including reporting and defending against them when they do
3321 occur. The other is monitoring known malicious actors or
3322 groups in advance of attacks to proactively identify the
3323 techniques or tactics they may be using or planning to use to
3324 compromise this environment. These are our main and state
3325 responsibilities relating to the security environment.

3326 We have worked very closely with CMS and Verizon
3327 Terremark on all phases of our work. CMS reviews and
3328 approves any capability we place in the environment, and
3329 Verizon Terremark, as the host of the environment, helps
3330 determine what security measures are placed in the virtual
3331 data center.

3332 Prospective on our role is important. While our work
3333 for CMS is essential, it is narrowly focused, and we were not
3334 involved in the design of the site, developing the software
3335 that runs it, or its administration. To that end, we do not
3336 monitor the site for performance purposes. Foreground
3337 Security is just 1 member of the security team, in addition
3338 to the other companies represented today here on this panel,
3339 Verizon Terremark, URS, CGI and QSSI, all play key roles in
3340 developing and testing the security of Healthcare.gov.

3341 I am proud of the work that Foreground Security has
3342 undertaken, and continues to undertake in order to allow

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3343 families and individuals looking for health insurance to use
3344 the Healthcare.gov Web site, secure in the knowledge that
3345 their personal information is being protected with state-of-
3346 the-art monitoring and defenses. To that--to this point,
3347 Foreground Security has fulfilled its obligations to CMS on
3348 time and under budget. We are dedicated to secure the
3349 operation of Healthcare.gov, and take extremely serious the
3350 obligations to the public trust.

3351 I welcome any questions you may have.

3352 [The prepared statement of Mr. Amsler follows:]

3353 ***** INSERT D *****

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|

3354 Mr. {Murphy.} Thank you, Mr. Amsler.

3355 Couple of questions I want to begin with. First of all,
3356 I will start with you, Mr. Amsler. Do you--you were here
3357 for--throughout Mr. Chao's testimony, all three of you were.
3358 Do you have any concerns about any comments that were made by
3359 Mr. Chao?

3360 Mr. {Amsler.} I wouldn't have any specific concerns--

3361 Mr. {Murphy.} Ms. Bauer?

3362 Mr. {Amsler.} --I would like to voice.

3363 Ms. {Bauer.} No.

3364 Mr. {Murphy.} Mr. Providakes?

3365 Mr. {Providakes.} No concerns.

3366 Mr. {Murphy.} All right. Mr. Amsler, you had said that
3367 in addition to the other companies represented today in this
3368 panel, Verizon Terremark, URS, CGI and QSSI, all played key
3369 roles in developing and testing the security of
3370 Healthcare.gov. Are you also referring to Ms. Bauer's
3371 company played a role in this?

3372 Mr. {Amsler.} I view them as our teammate, I view them
3373 as one of us.

3374 Mr. {Murphy.} Because I thought in her testimony she
3375 said that they were not that involved. So let me ask you,

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3376 with this many companies involved, who did you all report to?

3377 Mr. {Amsler.} Well, our customer was CMS, and the
3378 security team--

3379 Mr. {Murphy.} Person. Is there a person?

3380 Mr. {Amsler.} Our direct government technical lead, his
3381 name is Tom Shankwailer.

3382 Mr. {Murphy.} And with regard to this, with all of
3383 these companies involved playing key roles in developing and
3384 testing security, is that typical to have so many companies
3385 involved as opposed to one that is trying to do the end-to-
3386 end work on this?

3387 Mr. {Amsler.} Well, we have experienced all sizes of
3388 implementations. This one is obviously, certainly one of the
3389 largest that I have ever seen undertaken. I have certainly
3390 seen lots of people involved, but probably not this many.

3391 Mr. {Murphy.} Mr. Providakes, is this typical to have
3392 so many companies involved in dealing with the security in a
3393 site?

3394 Mr. {Providakes.} Not really number of companies that
3395 were involved, but having two or three is not untypical to
3396 have on the complexity of a site like this.

3397 Mr. {Murphy.} I just wondered if that added to the
3398 complexity of trying to monitor security of the site.

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3399 Mr. {Providakes.} If it is well managed from a program
3400 perspective--

3401 Mr. {Murphy.} Was it well managed?

3402 Mr. {Providakes.} I would not know.

3403 Mr. {Murphy.} From your perspective?

3404 Mr. {Providakes.} I don't--we weren't involved in that
3405 level of insight on that. I believe, you know--

3406 Mr. {Murphy.} All right, Ms. Bauer, were you involved
3407 in that level, and was it well managed from your point of
3408 view?

3409 Ms. {Bauer.} Our management from CMS has been on a very
3410 regular basis. We have daily meetings, in fact, since
3411 Healthcare.gov went live. Those meetings actually began, or
3412 ramped up I should say, to hourly and then back to way to
3413 about every 4 hours, and now they are on a shift basis of
3414 three times a day.

3415 Mr. {Murphy.} Well, you just said activities involving
3416 the developing, scaling, testing, release or administration
3417 of the Federal Exchange Program system, Healthcare.gov, the
3418 Federal Exchange or the Federally-facilitated Marketplace, or
3419 FFM, are not within the scope of your contract. So you were
3420 not involved in the security issues involved with those Web
3421 sites?

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3422 Ms. {Bauer.} The security, yes, but not the
3423 development, scaling or testing of the Healthcare.gov
3424 applications, per se.

3425 Mr. {Murphy.} Were you involved with the testing of the
3426 security?

3427 Ms. {Bauer.} Yes.

3428 Mr. {Murphy.} And was it working?

3429 Ms. {Bauer.} Yes.

3430 Mr. {Murphy.} At October 1?

3431 Ms. {Bauer.} Everything that was under our scope.

3432 Mr. {Murphy.} Under your scope.

3433 Ms. {Bauer.} Yes--

3434 Mr. {Murphy.} But in terms of--

3435 Ms. {Bauer.} --was functioning.

3436 Mr. {Murphy.} --how it relates to other parts, you
3437 don't know?

3438 Ms. {Bauer.} I would not know that.

3439 Mr. {Murphy.} Okay. Mr. Amsler, how about for you,
3440 were your parts working okay in your individual part, and was
3441 that also tested with regard to the others?

3442 Mr. {Amsler.} Congressman, to be clear, for--as far as
3443 our work is concerned, our focus worked around operational
3444 monitoring security and some testing, we absolutely were

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3445 working. I can't speak to the rest of the groups and the
3446 teams that were involved in development, or even the SCA--

3447 Mr. {Murphy.} What I am trying to find out, was that--

3448 Mr. {Amsler.} --people who were not involved.

3449 Mr. {Murphy.} --typical, atypical, and would you be
3450 concerned about how your parts worked in conjunction with the
3451 site overall, or is that not typically a question you would
3452 ask? Well, I--it is like this. If you design a part for a
3453 car and you know your part is working, would you like to know
3454 if the car works?

3455 Mr. {Amsler.} Absolutely.

3456 Mr. {Murphy.} And so that is what I am asking all of
3457 you, would you have liked to have known that if your segments
3458 may have worked on their own, but didn't--you didn't know
3459 whether or not it worked at the whole system security. Is
3460 that correct, Mr. Providakes?

3461 Mr. {Providakes.} Well, that would be correct.

3462 Mr. {Murphy.} Ms. Bauer?

3463 Ms. {Bauer.} Yes.

3464 Mr. {Murphy.} Okay. From--Mr. Providakes, CMS adopted
3465 the security controls you developed, correct?

3466 Mr. {Providakes.} That is correct.

3467 Mr. {Murphy.} And are these controls embedded in the

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3468 applications at the direction of CMS?

3469 Mr. {Providakes.} They were assessed, but yes, they
3470 were embedded for the configuration changes would be made
3471 based on the configuration controls.

3472 Mr. {Murphy.} And at what point of the application
3473 development phase should security controls begin to be
3474 embedded into the application?

3475 Mr. {Providakes.} Well, at the production phase. When
3476 we test--generally, when we test with an SCA, we are assuming
3477 that we are looking at the production-ready version of the
3478 application, and then we apply those CMS security controls we
3479 talked about and assess those against the production-ready
3480 version of that application.

3481 Mr. {Murphy.} Are they embedded into the architecture
3482 of Healthcare.gov?

3483 Mr. {Providakes.} The overall CMS enterprise security
3484 controls are to be applied across all the systems of
3485 Healthcare.gov.

3486 Mr. {Murphy.} So they should be embedded then into
3487 Healthcare.gov?

3488 Mr. {Providakes.} It should be.

3489 Mr. {Murphy.} Were they?

3490 Mr. {Providakes.} I have no way of knowing that.

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3491 Mr. {Murphy.} Ms. Bauer, do you know if they were?

3492 Ms. {Bauer.} I do not know.

3493 Mr. {Murphy.} Mr. Amsler?

3494 Mr. {Amsler.} I wouldn't know the answer to that.

3495 Mr. {Murphy.} Okay. But you all worked on these
3496 security parts. We don't know if they were embedded and you
3497 don't know if anybody did testing, but you would have liked
3498 to have seen that. Am I correct with all of you?

3499 Mr. {Providakes.} No, just parts. Just some parts.

3500 Mr. {Murphy.} Ms. Bauer, correct?

3501 Ms. {Bauer.} Correct

3502 Mr. {Murphy.} Mr. Amsler?

3503 Mr. {Amsler.} Correct.

3504 Mr. {Murphy.} Thank you.

3505 And now we will give--yield to Ms. DeGette for 5
3506 minutes.

3507 Ms. {DeGette.} Thank you, Mr. Chairman.

3508 As Mr. Chao testified, it is part of CMS's protocols
3509 that they hire independent contractors to test different
3510 parts of the security aspects of the site. Is that your
3511 understanding as well, Mr. Providakes?

3512 Mr. {Providakes.} Yes, it is.

3513 Ms. {DeGette.} And is it yours, Ms. Bauer?

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3514 Ms. {Bauer.} Yes.

3515 Ms. {DeGette.} And is it yours, Mr. Amsler?

3516 Mr. {Amsler.} Yes.

3517 Ms. {DeGette.} So, Mr. Providakes, I want to ask you
3518 first. You testified your company was not hired to do the--
3519 to perform end-to-end security testing, is that correct?

3520 Mr. {Providakes.} That is correct.

3521 Ms. {DeGette.} And so what your job was to assess and
3522 identify risks and specific components of Healthcare.gov, to
3523 work with CMS and to address those concerns and report on the
3524 findings and results. Is that correct?

3525 Mr. {Providakes.} That is correct.

3526 Ms. {DeGette.} And am I correct that in virtually all
3527 cases, when you did identify high risks in Healthcare.gov
3528 components, CMS was able to mitigate those risks before the
3529 system went live?

3530 Mr. {Providakes.} Yes. Almost all the high risks were
3531 mitigated.

3532 Ms. {DeGette.} And you said in your testimony--in your
3533 written testimony, MITRE is not in charge of security for
3534 Healthcare.gov. We were not asked, nor did we perform, end-
3535 to-end security testing. We have no view of the overall
3536 safety or security status of Healthcare.gov. That is because

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3537 you were only asked to do a narrow assessment of part of it,
3538 right?

3539 Mr. {Providakes.} A narrow assessment in scope and in a
3540 time that is--

3541 Ms. {DeGette.} In time.

3542 Mr. {Providakes.} In time.

3543 Ms. {DeGette.} Now, I just want to ask you, what is
3544 your personal view of the overall safety or security of
3545 Healthcare.gov, having worked on this, at least some aspects
3546 of it?

3547 Mr. {Providakes.} Well, my personal perspective--

3548 Ms. {DeGette.} Uh-huh.

3549 Mr. {Providakes.} --knowing CMS experience in the past,
3550 as Henry Chao alluded to, they do a very solid job in terms
3551 of securing their systems--

3552 Ms. {DeGette.} And--

3553 Mr. {Providakes.} --historically.

3554 Ms. {DeGette.} And what you were doing was part of the
3555 same types of things CMS has done to secure their systems in
3556 the past--

3557 Mr. {Providakes.} That is correct.

3558 Ms. {DeGette.} --is that right?

3559 Mr. {Providakes.} That is correct.

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3560 Ms. {DeGette.} Ms. Bauer--now, as I understand it, Mr.
3561 Amsler, your company works sort of as a subcontractor of Ms.
3562 Bauer's company. Is that right?

3563 Mr. {Amsler.} Yes.

3564 Ms. {DeGette.} Okay. So what you folks do is your
3565 company--CCSi monitors the firewalls and network devices for
3566 the e-cloud that hosts Healthcare.gov, and scans the Web
3567 site's application for security vulnerabilities. Is that
3568 correct?

3569 Ms. {Bauer.} That is correct.

3570 Ms. {DeGette.} And on October 22, you briefed this
3571 committee, and I want to ask you, at that time, had you
3572 detected any activity that you would consider to be out of
3573 the ordinary for a system like this?

3574 Ms. {Bauer.} Not out of the ordinary, no.

3575 Ms. {DeGette.} Okay. And are you continuing to monitor
3576 the Web site moving forward?

3577 Ms. {Bauer.} Yes, we continue to perform all the
3578 functions of our contract.

3579 Ms. {DeGette.} And why is that?

3580 Ms. {Bauer.} I am sorry?

3581 Ms. {DeGette.} Why are you continuing to monitor the
3582 functions?

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3583 Ms. {Bauer.} Because that is the scope of our contract,
3584 is to continually--

3585 Ms. {DeGette.} Okay. And have you--

3586 Ms. {Bauer.} --monitor it.

3587 Ms. {DeGette.} Have you detected any activity since
3588 October 22 that you considered to be out of the ordinary?

3589 Ms. {Bauer.} We would detect activity on a daily, if
3590 not hourly basis. That is part of the nature of security
3591 monitoring. Whether it is extreme or out of the ordinary,
3592 there is nothing that has been brought to my attention that
3593 would--

3594 Ms. {DeGette.} And would that be then reported to CMS?

3595 Ms. {Bauer.} Yes, there is an incident response plan,
3596 and we follow the procedures of that plan.

3597 Ms. {DeGette.} And have you seen anything that would
3598 indicate some terrible problem with the Web site, vis-à-vis,
3599 security?

3600 Ms. {Bauer.} Nothing that I have seen or that has been
3601 escalated to me, no.

3602 Ms. {DeGette.} Okay. And there is another contractor
3603 as I understand that has also been asked to look at other
3604 aspects, and that is Verizon. They are not here today. Is
3605 that your understanding as well?

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3606 Ms. {Bauer.} Yes. Yes.

3607 Ms. {DeGette.} So is--Ms. Bauer, has your company
3608 worked with CMS before? Mr. Providakes said his has on
3609 security issues.

3610 Ms. {Bauer.} No, we have not, but we--

3611 Ms. {DeGette.} Okay.

3612 Ms. {Bauer.} --have other security work.

3613 Ms. {DeGette.} Okay. And Mr. Amsler, what about your
3614 company?

3615 Mr. {Amsler.} Not directly for CMS--

3616 Ms. {DeGette.} Okay.

3617 Mr. {Amsler.} --but other HHS--

3618 Ms. {DeGette.} Okay, so you wouldn't know whether this
3619 is--kind of mirrors other security activity with CMS. But,
3620 Mr. Providakes, you are telling me that, with what your
3621 company has done before, you are seeing a similar concern and
3622 readiness for security applications?

3623 Mr. {Providakes.} Well, what I said was that following
3624 CMS's approach towards security, they do execute, you know,
3625 10, 20, 70 SCA's a year that we actually executed for CMS.
3626 So their--part of their process is, before they execute an
3627 ATO, they look for the input of these SCA's, which is a very
3628 rigorous process, a definition, defined in a parameter in a

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3629 moment of time that we would conduct these SCA's for CMS as
3630 input to the ATO process.

3631 Ms. {DeGette.} Right. Okay, thank you.

3632 Thanks, Mr. Chairman. I appreciate it.

3633 Mr. {Murphy.} Let me ask clarification of something Ms.
3634 DeGette said.

3635 Mr. {Providakes.} Sure.

3636 Mr. {Murphy.} She asked you a question about CMS and
3637 their work on this, and you used the word historically. Were
3638 you referring then to the Healthcare.gov Web site or in the
3639 past they were?

3640 Mr. {Providakes.} No. In the past. Broadly across CMS
3641 in terms of their security rigor that they apply across their
3642 systems.

3643 Mr. {Murphy.} Thank you.

3644 Mr. Olson, you are recognized for 5 minutes.

3645 Mr. {Olson.} I thank the Chair. I mostly want to thank
3646 the witnesses for your patience being here. It has been a
3647 long day, I know that.

3648 Very brief questions. I mean getting health--ObamaCare--
3649 -I am sorry, Healthcare.gov up and running is not rocket
3650 scientists, and that is good because if we were, we would
3651 still be waiting to land on the moon over 50 years later.

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3652 You may have seen the McKinsey report, the Red Team
3653 report. Have you all seen that?

3654 Ms. {Bauer.} I have not.

3655 Mr. {Olson.} Okay. I will get the copies to you. I
3656 just want to ask some questions about the report. And I
3657 apologize that you haven't seen it, but it compares on page 4
3658 ideal, large-scale programs and the current state of
3659 Healthcare.gov. And I want to--just some yes-or-no
3660 questions, do you agree with the statements from this report.
3661 And again, it is compared to large-scale ideal--large-scale
3662 program development ideal program with the characteristics of
3663 Healthcare.gov. The first ideal situation, clear
3664 articulation of requirements and success metrics in
3665 Healthcare.gov, evolving requirements and multiple
3666 definitions of success. Do you agree with those assessments
3667 that that is ideal, and that is what has happened with
3668 Healthcare.gov, Mr. Providakes? Yes or no, sir? Don't want
3669 to put you on the spot.

3670 Mr. {Providakes.} It is very difficult to answer that
3671 question. Is that a hypothetical question in terms of--

3672 Mr. {Olson.} Hypothetical, yes, sir. I mean the ideal
3673 program is in clear articulation and has that happened on
3674 Healthcare.gov?

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3675 Mr. {Providakes.} In the best world, you would love to
3676 have clear articulated requirements upfront that you can
3677 design to, build to, test to, and that would be great,
3678 although it is rare, but that would be great.

3679 Mr. {Olson.} Okay, involving requirements with
3680 Healthcare.gov, has that been a problem?

3681 Mr. {Providakes.} I am not sure of the number of
3682 requirements. I would think there were quite a number of
3683 requirements for Healthcare.gov.

3684 Mr. {Olson.} Ms. Bauer?

3685 Ms. {Bauer.} I would--just having looked at it briefly,
3686 I would agree with--

3687 Mr. {Olson.} I apologize for that, ma'am.

3688 Ms. {Bauer.} I would agree with the description of
3689 ideals--the ideal situation, however, I wouldn't have insight
3690 into the current situation because that involves the
3691 development of Healthcare.gov--

3692 Mr. {Olson.} Okay.

3693 Ms. {Bauer.} --which is not within the scope of our
3694 contract.

3695 Mr. {Olson.} Mr. Amsler?

3696 Mr. {Amsler.} I would--ideal is--I agree with ideal.
3697 Again, we weren't involved in those aspects, so I couldn't

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3698 speak to it.

3699 Mr. {Olson.} How about the program that ideal is
3700 sequential requirements design, build and testing,
3701 integration, revision between phases, and what the current
3702 situation is parallel stacking of all phases. Do you agree,
3703 Mr. Providakes? I apologize, sir, for not--

3704 Mr. {Providakes.} That is fine. If--

3705 Mr. {Olson.} --pronouncing--would idealism work?

3706 Mr. {Providakes.} It would create significant
3707 challenges to the program office to deliver that.

3708 Mr. {Olson.} Has there been parallel stacking?

3709 Mr. {Providakes.} It would be a significant challenge
3710 to do that.

3711 Mr. {Olson.} Ms. Bauer?

3712 Ms. {Bauer.} I would agree with that statement.

3713 Mr. {Olson.} Mr. Amsler?

3714 Mr. {Amsler.} Agree.

3715 Mr. {Olson.} Okay, how about interim integrated
3716 operations and testing is ideal. I think we all agree with
3717 that. And what has happened is insufficient time and scope
3718 of end-to-end testing. Would you all agree with those
3719 statements, yes or no?

3720 Mr. {Providakes.} I guess in the context you put it,

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3721 you are saying is there a limited end-to-end testing, and
3722 given the fact that you have a hard date, I would surmise
3723 they had limited time to end-to-end testing. It doesn't mean
3724 you couldn't have done it, it just meant there is limited
3725 time to do it.

3726 Mr. {Olson.} Ms. Bauer?

3727 Ms. {Bauer.} Yeah, generally I would agree. I would
3728 have no insight though into what the increments were as
3729 regards to schedule, but, you know, you could create
3730 milestones and achieve ideally just about any goal if you
3731 create the milestones and achieve them on the way to the
3732 goal.

3733 Mr. {Olson.} Mr. Amsler?

3734 Mr. {Amsler.} End-to-end testing for me is pure
3735 security. That is the world we lived in, and that is the
3736 world that we only live in. We can achieve a lot testing
3737 along the way, but I would certainly--I always shoot for
3738 ideal. Ideal would be end-to-end testing.

3739 Mr. {Olson.} And ideal a limited initial launch or a
3740 full launch? Not ideal. Last question. Yes or no, do you
3741 agree with those statements? Launching at full volume is not
3742 very good, limited initial launch what we should be seeking?

3743 Mr. {Providakes.} Well, limited launch increases the

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3744 risk, obviously, than a full. It is an increased risk.

3745 Mr. {Olson.} Yeah. Ms. Bauer?

3746 Ms. {Bauer.} I would actually suggest that perhaps a
3747 limited launch would have had a lower risk, and that a full
3748 launch may have a larger risk, whatever system you would be
3749 deploying.

3750 Mr. {Olson.} Mr. Amsler?

3751 Mr. {Amsler.} I agree with Ms. Bauer's statement.

3752 Mr. {Olson.} Well said, sir.

3753 And one final question. Again, I am not trying to put
3754 you on the spot, but with all your knowledge about how this
3755 program rolled out, are you comfortable putting yourselves'
3756 and your families', putting your personal information into
3757 Healthcare.gov?

3758 Mr. {Providakes.} I have.

3759 Mr. {Olson.} You are comfortable? Yes.

3760 Mr. {Providakes.} That is a personal choice that you
3761 have to make based on, in my case, where knowing the limited
3762 amount of personal information I put up there and other
3763 information, I feel comfortable personally, but that might
3764 not apply to everyone.

3765 Mr. {Olson.} Ms. Bauer, yes or no, ma'am, comfortable?

3766 Ms. {Bauer.} Yes.

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3767 Mr. {Olson.} Mr. Amsler?

3768 Mr. {Amsler.} I am actually very happy with my current
3769 healthcare.

3770 Mr. {Olson.} Oh boy, you are trying to open a hornet's
3771 nest there.

3772 Mr. {Murphy.} Well, too bad you can't keep it.

3773 Mr. {Olson.} That is my time.

3774 Mr. {Murphy.} What it comes down to. Gentleman's time
3775 has expired.

3776 Ms. DeGette, you have a clarifying question?

3777 Ms. {DeGette.} Thank you, Mr. Chairman.

3778 The questions that Mr. Olson was asking you folks were
3779 on this McKinsey document that we spent so much time with the
3780 last witness talking about, tab 1 of the notebook. Have you
3781 seen that report before, Mr. Providakes?

3782 Mr. {Providakes.} I am familiar of this report.

3783 Ms. {DeGette.} Okay. Ms. Bauer, have you see it?

3784 Ms. {Bauer.} No, I have not.

3785 Ms. {DeGette.} And, Mr. Amsler, have you see it?

3786 Mr. {Amsler.} I have not.

3787 Ms. {DeGette.} Okay. So, Mr. Providakes, the 2 of you
3788 --in any--then, Ms. Bauer and Mr. Amsler, any answers you
3789 were giving were really just based on speculation, since you

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3790 weren't--haven't seen it and weren't involved with it, is
3791 that right?

3792 Ms. {Bauer.} Yes.

3793 Ms. {DeGette.} Mr. Amsler?

3794 Mr. {Amsler.} That is correct.

3795 Ms. {DeGette.} Okay, Mr. Providakes, so Mr. Olson was
3796 asking you about some of these recommendations. This is from
3797 last spring. It was a snapshot in time. On page 4 of that
3798 report, at the bottom where he was talking about evolving
3799 requirements, multiple definitions of success, et cetera.

3800 Mr. {Providakes.} Um-hum.

3801 Ms. {DeGette.} The part he forgot to mention, which was
3802 the part also I noticed they forgot to mention when the
3803 previous witness was up, is the part that is in the box in
3804 bold type at the bottom of all of those current situation
3805 bullets, which says, CMS has been working to mitigate
3806 challenges resulting from program characteristics. Do you
3807 see that?

3808 Mr. {Providakes.} I do see it.

3809 Ms. {DeGette.} What does that mean to you?

3810 Mr. {Providakes.} Well, it means to me that they
3811 recognize the risks and the challenges of the program, and
3812 they were looking at options or mitigation approaches that

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3813 would minimize the risks.

3814 Ms. {DeGette.} So CMS hired McKinsey to do an
3815 evaluation of the program and come up with some concerns that
3816 they could then work to mitigate. Is that right?

3817 Mr. {Providakes.} Only what I--yes.

3818 Ms. {DeGette.} And that is the same reason they hired
3819 your company to do security assessments, is to find places
3820 where there might be problems, and to make recommendations
3821 that they could then work to mitigate. Is that right?

3822 Mr. {Providakes.} That is correct. Identify risks,
3823 mitigate risks.

3824 Ms. {DeGette.} And in your view, at least the
3825 recommendations your company made, did they, in fact, work to
3826 mitigate those risks?

3827 Mr. {Providakes.} In the context of the SCA, yes.

3828 Ms. {DeGette.} Thank you very much, Mr. Chairman. I
3829 have no further questions.

3830 Mr. {Murphy.} Okay, had you seen this document before
3831 today, Mr. Providakes?

3832 Mr. {Providakes.} I am familiar of the document. It
3833 has been a while.

3834 Mr. {Murphy.} But--so you are familiar. So when they
3835 say they have been working to mitigate challenges, you are

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3836 personally aware that there--some of these mitigations were
3837 taking place, or you are just saying so today?

3838 Mr. {Providakes.} No, I had no idea of what mitigation--
3839 --whether they took the recommendations of this or not--

3840 Mr. {Murphy.} I was curious because you were drawing a
3841 conclusion, but I didn't know if you had--so that is based
3842 upon--

3843 Mr. {Providakes.} Based upon--

3844 Mr. {Murphy.} --just a guest today, okay.

3845 Mr. {Providakes.} Exactly, yes.

3846 Mr. {Murphy.} Quick thing. Mr. Amsler, while
3847 developing the security measures for the cloud environment,
3848 have you encountered any challenges at all?

3849 Mr. {Amsler.} Certainly lots of challenges along the
3850 way. Congressman, did you mean more implementing them or
3851 certain things?

3852 Mr. {Murphy.} Some things that are different from what
3853 you are used to here, or anything standing out to you that is
3854 a concern with regard to the cloud environment or the
3855 security there?

3856 Mr. {Amsler.} Well, the cloud in and of itself brings a
3857 unique set of challenges that any--us in the industry are all
3858 trying to deal with. It--

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3859 Mr. {Murphy.} That is a system that you can't
3860 necessarily correct right now with a cloud environment. It
3861 is--on its own, it is a secure concern.

3862 Mr. {Amsler.} Agreed. It is our biggest--one of our
3863 biggest challenges that we are facing as an industry today,
3864 that being the cyber security industry.

3865 Mr. {Murphy.} Who is in charge of that cloud
3866 environment?

3867 Mr. {Amsler.} Verizon Terremark is, and I assume you
3868 mean actually owns it--

3869 Mr. {Murphy.} Yes.

3870 Mr. {Amsler.} --and controls it.

3871 Mr. {Murphy.} And how difficult is it to develop these
3872 security measures while the system is being built?

3873 Mr. {Amsler.} That would not be ideal.

3874 Mr. {Murphy.} Do you have all the tools and
3875 capabilities now to successfully and fully monitor this
3876 system?

3877 Mr. {Amsler.} I am a unique animal in that I live, eat
3878 and breathe cyber security, and as a company, we do--

3879 Mr. {Murphy.} I understand.

3880 Mr. {Amsler.} --so we always strive for better. I am
3881 always striving to make it the best that I can.

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3882 Mr. {Murphy.} Do you have all the tools now you need to
3883 fully monitor the system?

3884 Mr. {Amsler.} We have a set of controls that exceed any
3885 standard set of controls--

3886 Mr. {Murphy.} I understand you are trying to do a great
3887 job. I appreciate that. I am just trying to get a sense of
3888 have you been limited in any way in your ability to do all
3889 the things you would like to do with your excellent team in
3890 place?

3891 Mr. {Amsler.} There are some things that we have asked
3892 for that are not in place as of yet.

3893 Mr. {Murphy.} Tell me, such as what?

3894 Mr. {Amsler.} These were--they are very technical in
3895 nature. Again, we have a standard set of controls--

3896 Mr. {Murphy.} Sure.

3897 Mr. {Amsler.} --or we are shooting for more.

3898 Ms. {DeGette.} Mr. Chairman, we might want to have him
3899 give us that information--

3900 Mr. {Murphy.} Yeah, could you let us know that?

3901 Ms. {DeGette.} --and provide it.

3902 Mr. {Amsler.} I would be happy to.

3903 Mr. {Murphy.} Or is that something you would like to do
3904 in private instead of public? Would that be better?

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3905 Mr. {Amsler.} I would be happy to get with my team and
3906 get with the--

3907 Mr. {Murphy.} I appreciate that. Ms. Bauer, do you
3908 have all the tools necessary to fully--

3909 Ms. {Bauer.} Well, our answers are essentially the same
3910 because we are an integrated team.

3911 Mr. {Murphy.} I see.

3912 Ms. {Bauer.} I would agree with Dave.

3913 Mr. {Murphy.} All right. And, Mr. Providakes, do you
3914 have all the tools necessary to fully do your work here?

3915 Mr. {Providakes.} Well, we are in a slightly different
3916 role, but, yes.

3917 Mr. {Murphy.} I see. So let me ask this then, with
3918 regard to how things are are. Is the system--have there been
3919 any attempts under what you have monitored, Ms. Bauer and Mr.
3920 Amsler, any attempts to hack into the system that you can
3921 tell?

3922 Mr. {Amsler.} Congressman, the simple answer is yes.
3923 The longer answer is I don't have an environment where it is
3924 not being attacked today though.

3925 Mr. {Murphy.} I understand. So with regard to this
3926 then, is that--is the system now--are you saying that it is
3927 fully secure from external hackers trying to get in?

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3928 Mr. {Amsler.} I--you know, I am never--we live in a
3929 world of not if but more when.

3930 Mr. {Murphy.} Um-hum.

3931 Mr. {Amsler.} That is the nature of the world we live
3932 in today. So I can never give you a guarantee that someone
3933 is not going to get in. It is probably going to happen at
3934 some point, but we have designed it to limit the damage and
3935 identify it as quick as possible.

3936 Mr. {Murphy.} So we can't at this point sign off and
3937 say the system is fully secure. It is an ongoing process,
3938 you are saying?

3939 Mr. {Amsler.} It is an always ongoing process. Today I
3940 feel comfortable with the capabilities we have put in place,
3941 but I am always striving for more.

3942 Mr. {Murphy.} I understand. And, Ms. Bauer, would you
3943 agree with that assessment?

3944 Ms. {Bauer.} I would. I would--Dave is answering it
3945 from a very--

3946 Mr. {Murphy.} You have to talk into the microphone, I
3947 can't hear you.

3948 Ms. {Bauer.} --very technical perspective, but I would
3949 say that from our perspective with regard to the tools and
3950 appliances we have in place, right now today, the system is

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3951 secure. As Dave says, security is always evolving, it is
3952 always dynamic and ongoing, and we are always going to want
3953 to do better and keep on top of the latest technology, the
3954 latest appliances, so we will always be maturing. But as
3955 regards the scope of our contract and the appliances and
3956 tools and processes we have in place, we are confident--

3957 Mr. {Murphy.} I mean I appreciate your standards of
3958 excellence, and I appreciate you understand this is an
3959 evolving process, but given the concerns for security, I am--
3960 what I am hearing from you is nobody can really give 100
3961 percent guarantee that this Web site is secure with regard to
3962 the data that has in it, the personally-identifiable
3963 information as people put those things in there. No one can
3964 guarantee that some hacker isn't going to try and get into
3965 it, and that they have--they will continue to try and probe
3966 until they get through. Is that what you are saying?

3967 Mr. {Amsler.} But I also would say the same thing about
3968 Facebook or any banking Web site as well.

3969 Mr. {Murphy.} Sure.

3970 Mr. {Amsler.} It is just unfortunately the world we
3971 live in today.

3972 Mr. {Murphy.} I appreciate that. Same with you, Ms.
3973 Bauer?

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3974 Ms. {Bauer.} Yeah, and I think that the critical factor
3975 is the rigor with which we have procedures in place to
3976 identify any risks, any vulnerabilities, and then work to
3977 mitigate them. And we have very robust procedures in place
3978 for that.

3979 Mr. {Murphy.} Very good. Well, I appreciate the
3980 comments from the panel today, and I ask unanimous consent
3981 that the written opening statements of other members be
3982 introduced into the record if they so will, and without
3983 objection, those documents will be in the record.

3984 [The information follows:]

3985 ***** COMMITTEE INSERT *****

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3986 Mr. {Murphy.} I also ask unanimous consent that the
3987 contents of the document binder be introduced into the record
3988 to authorize staff to make appropriate redactions. And
3989 without objection, the documents will be entered into the
3990 record with any redactions that staff determines are
3991 appropriate.

3992 [The information follows:]

3993 ***** COMMITTEE INSERT *****

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3994 Mr. {Murphy.} So in conclusion, I would like to thank
3995 all the witnesses and members that participated in today's
3996 hearing. I remind members they have 10 business days to
3997 submit questions for the record, and I ask that the witnesses
3998 all please agree to answer promptly to the questions, and we
3999 will work out some mechanism to answer some of them in
4000 confidential, in-camera discussions.

4001 And with that, this hearing is concluded.

4002 [Whereupon, at 1:30 p.m., the subcommittee was
4003 adjourned.]